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Elizabeth A. Brown
Clerk of Supreme Court

7 IN THE SUPREME COURT OF THE STATE OF NEVADA

8 ANDREW YOUNG,
9 Appellant,

Case No. 84412

10 vs.

11 THE STATE OF NEVADA,
12 Respondent.

13
14 APPELLANT'S APPENDIX VOLUME I

15
16
17 **JASON R. MARGOLIS, ESQ.**
18 625 South Sixth Street
19 Las Vegas, Nevada

ALEXANDER CHEN
District Attorney

AARON FORD
Attorney General for the State of Nevada

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21
22
23 **ATTORNEY FOR APPELLANT**
24 **ANDREW YOUNG**

ATTORNEYS FOR RESPONDENT
THE STATE OF NEVADA

ALPHABETIC APPENDIX FOR APPELLANT'S APPENDIX

<u>DOCUMENT</u>	<u>VOLUME</u>	<u>PAGE NOS.</u>
Amended Judgment of Conviction (Jury Trial) filed March 8, 2022	I	AA 001-AA 008
Indictment filed September 10, 2020	I	AA 009-AA 011
Motion to Sever Counts filed February 28, 2021	I	AA 012-AA 022
Notice of Appeal filed March 15, 2022	I	AA 023-AA 024
Opposition to the State's Motion in Limine to Admit Evidence Under Res Gestae or Evidence Related to Other Crimes filed April 8, 2021	I	AA 025-AA 037
Order Granting Defendant's Motion to Sever Counts filed April 6, 2021	I	AA 038-AA 041
Order Granting State's Motion in Limine to Admit Evidence Under Res Gestae or Evidence Related to Other Crimes filed April 23, 2021	I	AA 042-AA 045
Recorder's Transcript of Jury Trial - Day 1 filed April 18, 2022	I	AA 046-AA 205
Recorder's Transcript of Jury Trial - Day 2 filed April 18, 2022	II	AA 206-AA 393
Recorder's Transcript of Jury Trial - Day 3 filed April 18, 2022	III	AA 394-AA 543
Recorder's Transcript of Proceeding: State's Motion in Limine to Admit Evidence Under Res Gestae or Evidence Related to Other Crimes filed August 15, 2022	III	AA 544-AA 549

1	Reporter's Transcript of Proceedings		
2	Superseding Indictment filed October 13, 2020	IV	AA 550-AA 657
3	Second Superseding Indictment		
4	filed April 26, 2021	IV	AA 658-AA 663
5	State's Opposition to Defendant's Motion to Sever		
6	filed March 11, 2021	IV	AA 664-AA 709
7	State's Notice of Motion and Motion in		
8	Limine to Admit Evidence Under Res Gestae or		
9	Evidence Related to Other Crimes		
10	filed March 29, 2021	IV	AA 710-AA 730
11	Superseding Indictment filed October 1, 2020	IV	AA 731-AA 738
12	Third Amended Superseding Indictment		
13	filed February 2, 2022	IV	AA 739-AA 747
14	Verdict filed February 10, 2022	IV	AA 748-AA 749
15	Video Excerpts: Trial Exhibits 1-34, 36, 37 and 44 ¹		

27 ¹ Videos referenced herein are/were trial exhibits, and a Motion for an Order Directing Production
28 by the district court below is pending before this Court.

INDEX FOR APPELLANT'S APPENDIX

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Indictment filed September 10, 2020	I	AA 009-AA 011
Superseding Indictment filed October 1, 2020	IV	AA 731-AA 738
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State's Opposition to Defendant's Motion to Sever filed March 11, 2021	IV	AA 664-AA 709
State's Notice of Motion and Motion in Limine to Admit Evidence Under Res Gestae or Evidence Related to Other Crimes filed March 29, 2021	IV	AA 710-AA 730
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1	Recorder's Transcript of Jury Trial - Day 1 filed April 18, 2022	I	AA 046-AA 205
2			
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4			
5	Recorder's Transcript of Jury Trial - Day 3 filed April 18, 2022	III	AA 394-AA 543
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8	Evidence Related to Other Crimes		
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10 Video Excerpts: Trial Exhibits 1-34, 36, 37 and 44²

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27 ² Videos referenced herein are/were trial exhibits, and a Motion for an Order Directing Production
28 by the district court below is pending before this Court.

Thomas S. Lewis
CLERK OF THE COURT

1 AJOC

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 THE STATE OF NEVADA,

5 Plaintiff,

CASE NO. C-20-350623-1

6 -vs-

7 DEPT. NO. VI

8 ANDREW YOUNG
9 #1211422

10 Defendant.

11
12 AMENDED JUDGMENT OF CONVICTION
13 (JURY TRIAL)
14

15 The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 –
16 BURGLARY (Category B Felony) in violation of NRS 205.060; COUNT 2 – LARCENY
17 FROM THE PERSON, VICTIM OVER 60 YEARS OF AGE (Category C Felony) in violation
18 of NRS 205.270, 193.167; COUNT 3 – GRAND LARCENY (Category C Felony) in violation
19 of NRS 205.222.2; COUNT 4 – BURGLARY (Category B Felony) in violation of NRS
20 205.060; COUNT 5 – FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D
21 Felony) in violation of NRS 205.760(1); COUNT 6 – BURGLARY (Category B Felony) in
22 violation of NRS 205.060; COUNT 7 – BURGLARY (Category B Felony) in violation of NRS
23 205.060; COUNT 8 – LARCENY FROM THE PERSON, VICTIM OVER 60 YEARS OF
24 AGE (Category C Felony) in violation of NRS 205.270, 193.167; COUNT 9 – BURGLARY
25 (Category B Felony) in violation of NRS 205.060; COUNT 10 – LARCENY FROM THE
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AA 001

1 PERSON, VICTIM OVER 60 YEARS OF AGE (Category C Felony) in violation of NRS
2 205.270, 193.167; COUNT 11 – BURGLARY (Category B Felony) in violation of NRS
3 205.060; COUNT 12 – FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D
4 Felony) in violation of NRS 205.760(1); COUNT 13 – BURGLARY (Category B Felony) in
5 violation of NRS 205.060; COUNT 14 – FRAUDULENT USE OF CREDIT OR DEBIT CARD
6 (Category D Felony) in violation of NRS 205.760(1); COUNT 15 – BURGLARY (Category B
7 Felony) in violation of NRS 205.060, of COUNT 16 – LARCENY FROM THE PERSON,
8 VICTIM OVER 60 YEARS OF AGE (Category C Felony) in violation of NRS 205.270,
9 193.167; COUNT 17 – BURGLARY (Category B Felony) in violation of NRS 205.060;
10 COUNT 18 – FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D Felony) in
11 violation of NRS 205.760(1); COUNT 19 – BURGLARY (Category B Felony) in violation of
12 NRS 205.060; COUNT 20 – FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category
13 D Felony) in violation of NRS 205.760(1); COUNT 21 – BURGLARY (Category B Felony) in
14 violation of NRS 205.060; and COUNT 22 – BURGLARY (Category B Felony) in violation of
15 NRS 205.060, and the matter having been tried before a jury and the Defendant having been
16 found guilty of the crimes of COUNT 1 – BURGLARY (Category B Felony) in violation of
17 NRS 205.060; COUNT 2 – LARCENY FROM THE PERSON, VICTIM OVER 60 YEARS OF
18 AGE (Category C Felony) in violation of NRS 205.270, 193.167; COUNT 3 – GRAND
19 LARCENY (Category C Felony) in violation of NRS 205.222.2; COUNT 4 – BURGLARY
20 (Category B Felony) in violation of NRS 205.060; COUNT 5 – FRAUDULENT USE OF
21 CREDIT OR DEBIT CARD (Category D Felony) in violation of NRS 205.760(1); COUNT 6 –
22 BURGLARY (Category B Felony) in violation of NRS 205.060; COUNT 7 – BURGLARY
23 (Category B Felony) in violation of NRS 205.060; COUNT 8 – LARCENY FROM THE

1 PERSON, VICTIM OVER 60 YEARS OF AGE (Category C Felony) in violation of NRS
2 205.270, 193.167; COUNT 9 – BURGLARY (Category B Felony) in violation of NRS
3 205.060; COUNT 10 – LARCENY FROM THE PERSON, VICTIM OVER 60 YEARS OF
4 AGE (Category C Felony) in violation of NRS 205.270, 193.167; COUNT 11 – BURGLARY
5 (Category B Felony) in violation of NRS 205.060; COUNT 12 – FRAUDULENT USE OF
6 CREDIT OR DEBIT CARD (Category D Felony) in violation of NRS 205.760(1); COUNT 13
7 – BURGLARY (Category B Felony) in violation of NRS 205.060; COUNT 15 – BURGLARY
8 (Category B Felony) in violation of NRS 205.060, of COUNT 16 – LARCENY FROM THE
9 PERSON, VICTIM OVER 60 YEARS OF AGE (Category C Felony) in violation of NRS
10 205.270, 193.167; COUNT 17 – BURGLARY (Category B Felony) in violation of NRS
11 205.060; COUNT 18 – FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D
12 Felony) in violation of NRS 205.760(1); COUNT 19 – BURGLARY (Category B Felony) in
13 violation of NRS 205.060; COUNT 21 – BURGLARY (Category B Felony) in violation of
14 NRS 205.060; and COUNT 22 – BURGLARY (Category B Felony) in violation of NRS
15 205.060; thereafter, on the 16th day of June, 2021, the Defendant was present in court for
16 sentencing with counsel DAVID R. FISCHER, ESQ., and good cause appearing,
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20 THE DEFENDANT WAS HEREBY ADJUDGED guilty of said offenses as set forth
21 in the jury's verdict under the LARGE HABITUAL Criminal Statute for COUNTS 1, 6, 7, 9,
22 11, 15, 17, 21 and 22, in addition to the \$25.00 Administrative Assessment Fee and \$250.00
23 Indigent Defense Civil Assessment Fee and \$3.00 DNA Collection Fee, the Defendant is
24 SENTENCED to the Nevada Department of Corrections (NDC) as follows: **COUNT 1 – LIFE**
25 **with a MINIMUM Parole Eligibility of TEN (10) YEARS; COUNT 2 - a MAXIMUM of**
26 **SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)**
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1 MONTHS plus a CONSECUTIVE term of SIXTY (60) MONTHS with a MINIMUM parole
2 eligibility of TWELVE (12) MONTHS for the Use of a Deadly Weapon, CONCURRENT with
3 COUNT 1; **COUNT 3** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole
4 Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNT 2; **COUNT 4**
5 - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-
6 FOUR (24) MONTHS, CONCURRENT with COUNT 3; **COUNT 5** - a MAXIMUM of
7 SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)
8 MONTHS, CONCURRENT with COUNT 4; **COUNT 6** - LIFE with a MINIMUM Parole
9 Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNTS 1, 2, 3 and 4; **COUNT 7** -
10 LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT
11 6; **COUNT 8** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility
12 of TWENTY-FOUR (24) MONTHS plus a CONSECUTIVE term of SIXTY (60) MONTHS
13 with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for the Use of a
14 Deadly Weapon, CONCURRENT with COUNT 7; **COUNT 9** - LIFE with a MINIMUM
15 Parole Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 8; **COUNT 10** - a
16 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
17 FOUR (24) MONTHS plus a CONSECUTIVE term of SIXTY (60) MONTHS with a
18 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for the Use of a Deadly
19 Weapon, CONCURRENT with COUNT 9; **COUNT 11** - LIFE with a MINIMUM Parole
20 Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 10; **COUNT 12** - a
21 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-
22 FOUR (24) MONTHS, CONCURRENT with COUNT 11; **COUNT 13** - a MAXIMUM of
23 SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)
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1 MONTHS, CONCURRENT with COUNT 12; **COUNT 15** - LIFE with a MINIMUM Parole
2 Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 13; **COUNT 16** - a
3 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
4 FOUR (24) MONTHS plus a CONSECUTIVE term of SIXTY (60) MONTHS with a
5 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for the Use of a Deadly
6 Weapon, CONCURRENT with COUNT 15; **COUNT 17** - LIFE with a MINIMUM Parole
7 Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 16; **COUNT 18** - a
8 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-
9 FOUR (24) MONTHS, CONCURRENT with COUNT 17; **COUNT 19** - a MAXIMUM of
10 SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24)
11 MONTHS, CONCURRENT with COUNT 18; **COUNT 21** - LIFE with a MINIMUM Parole
12 Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 19; **COUNT 22** - LIFE with a
13 MINIMUM Parole Eligibility of TEN (10) YEARS, CONSECUTIVE to COUNT 21,
14 CONCURRENT with COUNT 1; with THREE HUNDRED SIXTEEN (316) DAYS credit for
15 time served. As the \$150.00 DNA Analysis Fee and Genetic Testing have been previously
16 imposed, the Fee and Testing in the current case are WAIVED.
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1 THEREAFTER, The Defendant previously appeared before the Court with counsel and
2 entered a plea of not guilty to the crime of COUNT 23 - BATTERY WITH USE OF A
3 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B
4 Felony) in violation of NRS 200.481; and COUNT 24 - ATTEMPT MURDER WITH USE OF
5 A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330,
6 193.165, and the matter having been tried before the jury and the Defendant having been found
7 guilty of the crime of COUNT 23 - BATTERY WITH USE OF A DEADLY WEAPON
8 RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS
9 200.481; thereafter, on the 17th day of February, 2022, the Defendant was present in court for
10 sentencing with counsel JASON MARGOLIS, ESQ., and good cause appearing,
11

12 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense as set forth in the
13 jury's verdict under the LARGE HABITUAL CRIMINAL STATUTE, the Defendant is
14 SENTENCED to the Nevada Department of Corrections (NDC) as follows: COUNT 23 - LIFE
15 with a MINIMUM parole eligibility of TEN (10) YEARS; CONSECUTIVE to all other
16 charges, with FIVE HUNDRED FORTY (540) days credit for time served.
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22 Dated this 8th day of March, 2022

23 
24 _____
25 JB

26 E7B 2E0 F4C7 4F06
27 Jacqueline M. Bluth
28 District Court Judge

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-350623-1

7 vs

DEPT. NO. Department 6

8 Andrew Young
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Amended Judgment of Conviction was served via the court's electronic
13 eFile system to all recipients registered for e-Service on the above entitled case as listed
14 below:

14 Service Date: 3/8/2022

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AA 007

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1 **IND**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **NOREEN DEMONTE**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #08213**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 **THE STATE OF NEVADA,**
10 **Plaintiff,**

CASE NO: C-20-350623-1

11 **-vs-**

DEPT NO: XIX

12 **ANDREW YOUNG, #1211422**
13 **Defendant.**

INDICTMENT

14
15 **STATE OF NEVADA** }
16 **COUNTY OF CLARK** } **ss.**

17 **The Defendant above named, ANDREW YOUNG, accused by the Clark County Grand**
18 **Jury of the crime(s) of BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN**
19 **SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226) and**
20 **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS**
21 **200.010, 200.030, 193.330, 193.165 - NOC 50031), committed at and within the County of**
22 **Clark, State of Nevada, on or about the 26th day of July, 2020, as follows:**

23 **COUNT 1 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN**
24 **SUBSTANTIAL BODILY HARM**

25 **did willfully, unlawfully, and feloniously use force or violence upon the person of**
26 **another, to wit: ROBERT WILL, with use of a deadly weapon, to wit: a rock, by striking the**
27 **said ROBERT WILL on the head with said rock, resulting in substantial bodily harm to**
28 **ROBERT WILL.**


1 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill
3 ROBERT WILL, a human being, with use of a deadly weapon, to wit: a rock, by striking the
4 said ROBERT WILL on the head with said rock.

5
6 DATED this 9th day of September, 2020.

7 STEVEN B. WOLFSON
8 Clark County District Attorney
9 Nevada Bar #001565

10 BY


11 NOREEN DEMONTE
12 Chief Deputy District Attorney
13 Nevada Bar #08213

14
15 ENDORSEMENT: A True Bill

16
17 
18 Foreperson, Clark County Grand Jury

1 Names of Witnesses and testifying before the Grand Jury:

2 ALEMAR, FRANSISCO – SECURITY

3 FAISON, STACI – LVMPD

4 GRUEBLING, GLORIA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

5 JESSIE, JACK – LVMPD

6 LISKE, SANDEEP – LVMPD

7 ROED, WILLIAM – SECURITY

8 STRINGER, AMBER – LVMPD

9 WHEELER, JERRY – LVMPD

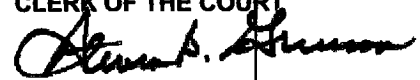
10
11 Additional Witnesses known to the District Attorney at time of filing the Indictment:

12 CUSTODIAN OF RECORDS - CCDC

13 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

14 CUSTODIAN OF RECORDS - LVMPD RECORDS

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27 19BGJ189X/20CR015829/mcb-GJ
28 LVMPD EV# 200700111103
(TK14)



1 MSVR
2 DAVID R. FISCHER, ESQ.
3 Nevada Bar No. 10348
4 LAW OFFICE OF DAVID R. FISCHER
5 400 South 4th Street, Suite 500
6 Las Vegas, Nevada 89101
7 Telephone: (702) 547-3944
8 admin@fischerlawlv.com
9 Attorney for Defendant ANDREW YOUNG

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 THE STATE OF NEVADA,
9 Plaintiff,

Case No. C-20-350623-1

Department No. III

10 vs.

11 ANDREW YOUNG,

MOTION TO SEVER COUNTS

12 Defendant.

13
14 **COMES NOW** the Defendant, ANDREW YOUNG, by and through his attorney, DAVID
15 R. FISCHER, ESQ., and respectfully files the following Motion to Sever Counts pursuant to NRS
16 174.165.

17 DATED this 28th day of February, 2021.

18 LAW OFFICE OF DAVID R. FISCHER

19
20
21 /s/ David R. Fischer

22 DAVID R. FISCHER, ESQ.
23 400 South 4th Street, Suite 500
24 Las Vegas, Nevada 89101
Attorney for Defendant ANDREW YOUNG

POINTS AND AUTHORITIES

I. INTRODUCTION

ANDREW YOUNG asks this honorable Court to sever count 17, BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony – NRS 200.481 – NOC 50226) , and count 18, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.010, 200.030, 193.330, 193.165 – NOC 50031), from the 12 counts of BURGLARY (Category B Felony NRS 205.060 – NOC 50424), 4 counts of LARCENY (Category C Felony – NRS 205.270, 193,167 – NOC 56020), 1 count of GRAND LARCENY (Category C Felony – NRS 205.222.2 – NOC 56004), and 5 counts of FRAUDULENT USE OF CREDIT OR DEBIT CARD (Category D Felony – NRS 206.760(1) – NOC 50796), because they were not based on the same act or transaction, they did not constitute parts of a common scheme or plan, and they were not connected together. Additionally, even if the counts were properly joined, they must be severed to prevent the actual prejudice that will result to Young should the jury be presented with indoor surveillance videos with much higher clarity pertaining to a series of theft-related offenses when compared to the very grainy, long distant video evidence pertaining to counts 17 and 18 which is outdoor surveillance of an incident involving a, “rock beating,” or a violent act, which occurred on July 26, 2020, at bus stop on Las Vegas Boulevard. Moreover, YOUNG contends that a central issue in counts 17 and 18 will be whether he in fact is the perpetrator of this July 26, 2020, rock beating, as YOUNG has an alibi . This Court’s failure to sever the superseding amended indictment as requested, unquestionably will result in severe prejudice to YOUNG as a consequence of the myriad of due process violations caused by a jury being presented with evidence from two wholly unrelated incidents; spillover effect alone can only result in a mistrial.

1 **II. PROCEDURAL HISTORY**

2 The state of Nevada originally filed a two-count criminal complaint in Las Vegas Justice
3 Court, Department 14 on August 5, 2020, charging YOUNG with one count of battery with use
4 of a deadly weapon resulting in substantial bodily harm and one count of attempt murder with use
5 of a deadly weapon. Subsequently, the State obtained a two-count Grand Jury Indictment alleging
6 the same one count of battery with use of a deadly weapon resulting in substantial bodily harm
7 and one count of attempt murder with use of a deadly weapon. Said indictment was filed in
8 District Court on September 10, 2020. A short time later, the state of Nevada convened a second
9 grand jury, resulting in a separate indictment for 22 counts of theft-related counts.

10 On October 1, 2020, the State filed a Superseding Indictment and on the same day an
11 Amended Superseding Indictment, both containing 24 criminal counts against YOUNG. The
12 Amended Superseding Indictment joined counts 1 and 2 from the original indictment for attempt
13 murder with use of a deadly weapon and battery with use of a deadly weapon resulting in
14 substantial bodily harm with 22 wholly unrelated non-violent theft and related counts. Counsel
15 for YOUNG reserved any objections to the filing of the Amended Superseding Indictment on that
16 date. The instant motion to sever follows.

17 **YOUNG respectfully requests that this Court sever counts 17 and 18 from the**
18 **remaining 22 unrelated, non-violent, theft-related counts in the Amended Superseding**
19 **Indictment to prevent manifest injustice to YOUNG caused by the severe, unfair prejudice**
20 **which is sure to result, should the State of Nevada be allowed to proceed in this manner.**
21 **This Court’s failure to sever the counts will undoubtedly prejudice a jury through the**
22 **introduction of impermissible character evidence, which here is only being used by the State**
23 **of Nevada in an effort to bolster their utter lack of evidence pertaining to counts 17 and 18**
24 **implicating YOUNG (one “percipient” witness is homeless and provides nothing useful, the**

1 **surveillance video is of exceptionally poor quality and shows nothing implicating YOUNG).**

2 **Further it does not fall within any of the enumerated exceptions under NRS 48.045(2).**

3 **(emphasis added)**

4 This case is currently set for Calendar Call on March 3, 2021 and for Jury Trial beginning
5 March 8, 2021. YOUNG now submits herein the instant Motion to Sever Counts and respectfully
6 requests the District Court grant the motion and order a separate trial for counts 17 and 18 in the
7 State's Amended Superseding Indictment.

8
9 **III. FACTS**

10 ANDREW YOUNG, stands charged with several counts of alleged burglary (counts 1, 4,
11 6, 7, 9, 11, 13, 15, 19, 21, 23, 24), larceny (counts 2, 8, 10, 16), grand larceny (count 3), and
12 fraudulent use of credit or debit card (counts 5, 12, 14, 20, 22) along with two unrelated alleged
13 counts of battery with use of a deadly weapon resulting in substantial bodily harm (count 17) and
14 attempt murder with use of a deadly weapon (count 18). In total, the State charges YOUNG with
15 24 counts.

16 According to the Declaration of Warrant/Summons (DWS), Detective Byrd investigated
17 an incident involving Robert Will and an unknown assailant that occurred on 7/26/2020 at
18 approximately 12:44 a.m. (See DWS – pg. 1). Detective Byrd's sworn affidavit describes the
19 incident as follows: "Robert was sitting at the bus bench located outside the Paris Hotel...when
20 an altercation took place between him and the [unknown assailant who]...used a large rock and
21 bludgeoned the victim in the head multiple times" (See DWS – pg. 1). The assailant then left
22 the scene but was described as a black male adult in his 50s or 60s wearing a grey shirt and black
23 jeans (See DWS – pg. 1). Video evidence of this incident was not initially obtained by detectives
24 (See DWS – pg. 1-3). . However, Fusion Watch video showed a suspect walking in the same

1 direction that victim’s assailant headed after the incident, but the suspect’s clothing did not match
2 what witnesses reported the assailant was wearing at the scene of the incident (See DWS – pg. 1-
3 3). Even though the Fusion Watch video did not capture the incident, was not high quality, and
4 depicted a suspect wearing articles of clothing that did not match those witnesses observed during
5 Mr. Will’s incident, Detective Jacobitz authored and distributed a critical reach flyer using images
6 from that surveillance footage (See DWS – pg. 3). .

7 Meanwhile, Detective Byrd had been investigating YOUNG for alleged larceny and
8 fraudulent use of credit card arising out of an incident on July 8, 2020 inside a Walmart(See DWS
9 – pg. 3). After Detective Byrd viewed the critical reach flyer Detective Jacobitz circulated,
10 Detective Byrd thought YOUNG was the individual depicted in the critical reach flyer (See DWS
11 – pg. 3). With YOUNG now the target of the investigation, detectives reviewed more video from
12 the Cosmopolitan and from Paris Hotel and located video of the battery incident however it was
13 very low quality (See DWS – pg. 4).

14 The State charges YOUNG with an alleged series of non-violent acts that took place inside
15 local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar’s Palace, Albertson’s,
16 GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel & Casino) on the following
17 dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9 of 2020. The State, also, in the same
18 amended indictment alleges YOUNG committed violent acts of battery and attempted murder on
19 July 26 of 2020, at a public bus stop on Las Vegas Boulevard by hitting one Robert Will with a
20 rock.

21 **IV. APPLICABLE LAW**

22 Pursuant to NRS 174.165, a criminal defendant may be granted relief from prejudicial
23 joinder of counts. Even when charges are properly joined, some form of relief may be necessary
24 to avert unfair prejudice to the defendant. Specifically, NRS 174.165(1) provides that “[i]f it

1 appears that a defendant ... is prejudiced by a joinder of offenses ... in an indictment ..., the court
2 may order an election or separate trials of counts.” Courts construing NRS 174.165(1)'s federal
3 cognate:

4 have identified three related but distinct types of prejudice that can flow from joined
5 counts: (1) the jury may believe that a person charged with a large number of offenses has
6 a criminal disposition, and as a result may cumulate the evidence against him or her or
7 perhaps lessen the presumption of innocence; (2) evidence of guilt on one count may
8 ‘spillover’ to other counts, and lead to a conviction on those other counts even though the
9 spillover evidence would have been inadmissible at a separate trial; and (3) defendant may
10 wish to testify in his or her own defense on one charge but not on another.

11 1A Charles Wright, Andrew D. Leipold, Peter J. Jennings, & Sarah N. Welling, *Federal Practice*
12 *and Procedure Criminal* § 222 (4th ed.2014).

13 “To require severance, the defendant must demonstrate that a joint trial would be
14 ‘manifestly prejudicial.’ The simultaneous trial of the offenses must render the trial
15 fundamentally unfair, and hence, result in a violation of due process.” *Honeycutt v. State*, 118
16 Nev. 660, 667–68, 56 P.3d 362, 367 (2002) (emphasis added), overruled on other grounds by
17 *Carter v. State*, 121 Nev. 759, 765, 121 P.3d 592, 596 (2005). In evaluating the defendant's
18 motion to sever, the district court must consider “whether [the] joinder is so manifestly prejudicial
19 that it outweighs the dominant concern [of] judicial economy and compels the exercise of the
20 court's discretion to sever.” *Tabish v. State*, 119 Nev. 293, 304, 72 P.3d 584, 591 (2003).

21 V. ANALYSIS

22 In *Tabish v. State*, the Nevada Supreme Court concluded that “the district court improperly
23 denied appellants' motions to sever the counts and that the error was not harmless beyond a
24 reasonable doubt” after it weighed five factors before requiring remand to the district court for a

1 new trial on some of the counts in that case. 119 Nev. 293, 304, 72 P.3d 584, 590 (2003). The
2 Court’s analysis considered (A) whether joinder was proper under NRS 173.115 because they
3 were part of a “common scheme or plan;” (B) “whether joinder is so manifestly prejudicial that
4 it outweighs the dominant concern with judicial economy and compels the exercise of the court’s
5 discretion to sever;” (C) whether judicial economy is outweighed by manifest prejudice; (D)
6 whether joinder was proper under NRS 48.035(3) to provide the “complete story;” and (E)
7 whether joinder was proper because of the “cross-admissibility” factor under the character
8 evidence exception of NRS 48.045(2). *Id.*, at 584, 591.

9 **A. Common Scheme or Plan: Counts 17 and 18 share absolutely no articulable**
10 **common scheme or plan with the remaining 12 counts of burglary, 4 counts of**
11 **larceny, 1 count of grand larceny, and 5 counts of fraudulent use of credit or debit**
12 **card.**

13 The State’s indictment charges YOUNG with an alleged series of non-violent acts that
14 took place inside local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar’s
15 Palace, Albertson’s, GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel &
16 Casino) on the following dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9 of 2020.
17 However, the indictment alleges YOUNG committed a violent battery and attempted murder that
18 occurred on July 26 of 2020, outdoors at a bus stop, and involved the use of a deadly weapon
19 (allegedly a rock).

20 The State does not allege that YOUNG used a rock or any other deadly weapon or violence
21 of any sort in the alleged series of non-violent acts that took place inside local stores and casinos.
22 Likewise, the State does not allege the series of non-violent acts that allegedly took place inside
23 local stores and casinos ever involved any sort of battery or attempted murder; however, much to
24 the contrary, counts 17 and 18 allegedly involve violent acts with no nexus between the alleged
violence described in counts 17 and 18 with any further allegations that those acts involved any
attempts at fraud or theft.

1 With no common scheme or plan between counts 17 and 18 linking them to the remaining
2 22 counts, the Court should sever these counts and order two separate trials.

3 **B. Prejudice: Joinder here would be manifestly prejudicial and would allow the jury**
4 **to convict YOUNG using video evidence and a series of other bad act evidence**
5 **that would not otherwise be admissible.**

6 The State's attempt at joinder in this case is in violation of the rule against character
7 evidence and is purely prejudicial when it's being used as the State seems to do here to bolster
8 identity issues in counts 17 and 18. In an attempt to unfairly overcome its identity issues in counts
9 17 and 18 and ultimately obtain an unfair conviction against YOUNG, the State joined the other
10 22 counts, which involves better video evidence that a jury may find more compelling.

11 Likewise, the jury may believe that since YOUNG is charged with a large number of
12 offenses, that he has a criminal disposition, and as a result may cumulate the evidence against him
13 or perhaps lessen the presumption of his innocence. Another danger here is that evidence of guilt
14 on any of the other 22 counts may 'spillover' to counts 17 and 18, and lead to a conviction on
15 those other counts even though the spillover evidence would have been inadmissible at a separate
16 trial. In short, the evidence from the alleged theft and fraud cases increases the likelihood of a
17 conviction on very serious charges of battery with use of a deadly weapon resulting in substantial
18 bodily harm and attempt murder with use of a deadly weapon because the lower quality video in
19 counts 17 and 18 combined with the better quality videos in the theft and fraud cases makes the
20 factual "inference" that YOUNG is guilty of count 17 and 18 a much easier leap for a jury to
21 make.

22 The manifestly prejudicial effect described here would allow the jury to convict YOUNG
23 using video evidence and a series of other bad acts that would otherwise be inadmissible. Thus,
24 the Court should sever counts 17 and 18 from the other 22 counts and order two separate trials.

C. Judicial Economy: Considerations of judicial economy are far outweighed by the
manifest prejudice that would result from the joinder of counts 17 and 18 with

1 **the remaining 12 counts of burglary, 4 counts of larceny, 1 count of grand**
2 **larceny, and 5 counts of fraudulent use of credit or debit card.**

3 On or about early August 2020, the state charged YOUNG in a two-count criminal
4 complaint, filed in Justice Court, followed by a grand jury proceeding in early September 2020,
5 obtaining a nearly identical two-count Indictment in this Court charging YOUNG with what are
6 now counts 17 and 18 in the instant case for an incident that occurred on July 26, 2020 involving
7 one Robert Will being by a random assailant with a rock. A short time later, the state obtained a
8 second grand jury indictment and then tacked 22 counts onto this case joining counts 17 and 18,
9 which counts involve no common plan or scheme with the remaining counts. Any argument in
10 favor of joinder based on judicial economy should be rejected due to the extent by which
11 considerations of judicial economy are far outweighed by the manifest prejudice that would result
12 therefrom. Put another way, if severance is not granted, this Court risks a mistrial and/or reversal
13 due to the extreme prejudice caused by allowing the State to proceed in this fashion.

14 **D. Complete Story: Counts 17 and 18 are in no way interconnected, let alone to a**
15 **degree that witnesses and evidence cannot describe the acts in controversy, or the**
16 **crimes charged without referring to the other acts or crimes.**

17 As described above, counts 17 and 18 are completely unrelated to the other 22 counts
18 alleged against YOUNG. As such there is no complete story to be told by allowing joinder in this
19 case, except that the State may wish to unfairly and unconstitutionally solve its identity issues in
20 counts 17 and 18 by joining them with the other 22 counts. The Court should also reject joinder
21 based on any complete story theories the State may claim.

22 **E. Cross-Admissibility: Under prior bad acts doctrine, evidence in the 12 counts of**
23 **burglary, 4 counts of larceny, 1 count of grand larceny, and 5 counts of**
24 **fraudulent use of credit or debit card would be inadmissible against YOUNG in**
25 **a separate trial for counts 17 and 18.**

26 It's worth restating that the State originally charged YOUNG in a very evidentiary weak
27 two-count case in Justice Court which was dismissed after the State obtained an Indictment in
28 this Court after going to the Grand Jury but once again only charging the same two-counts (now

1 counts 17 and 18) it charged in Justice Court and in its original Indictment. The State now seeks
2 to use joinder of counts 17 and 18 with 22 other counts to bolster its original weak case with
3 stronger evidence from a series of lower grade alleged offenses. If the Court does not reject the
4 State's attempt to present what would normally amount to inadmissible evidence against
5 YOUNG, it will allow a manifestly prejudicial miscarriage of justice to go forward against
6 YOUNG.

7 **VI. CONCLUSION**

8 In sum, to allow this case to proceed without severance of counts 17 and 18 from the
9 remaining 22 counts, YOUNG procedural due process is sure to be violated by allowing the
10 introduction of inadmissible character evidence, which serves no purpose other than to bolster the
11 state's theory of its case against YOUNG. Accordingly, YOUNG respectfully requests that this
12 Honorable Court grant his request to sever counts 17 and 18 from the remaining 22 counts, and
13 to allow YOUNG to proceed in a separate trial regarding these two counts.

14 DATED this 28th day of February, 2021.

15 LAW OFFICE OF DAVID R. FISCHER

16
17
18 /s/ David R. Fischer

19 DAVID R. FISCHER, ESQ.
20 400 South 4th Street, Suite 500
21 Las Vegas, Nevada 89101
22 *Attorney for Defendant ANDREW YOUNG*
23
24

1 **CERTIFICATE OF SERVICE VIA ELECTRONIC TRANSMISSION**

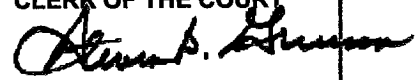
2 I HEREBY CERTIFY that I am an employee or agent of DAVID R. FISCHER, Esq.,
3 and that on the 28th day of February 2021, I served the foregoing MOTION TO SEVER
4 COUNTS through service by electronic filing, to the following person(s), or his/their agent, at
5 the following address(es):

6
7 Noreen.DeMonte@clarkcountyda.com
8 motions@clarkcountyda.com

9 /s/ David R. Fischer

10 an employee or agent of David R. Fischer, Esq.

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1 NOASC
2 YAMPOLSKY & MARGOLIS
3 MACE J. YAMPOLSKY, ESQ.
4 Nevada Bar No. 001945
5 JASON MARGOLIS, ESQ.
6 Nevada Bar No. 012439
7 625 South Sixth Street
8 Las Vegas, Nevada 89101
9 (702) 385-9777; Fax No. (702) 385-3001
10 Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,)
12)
13 Plaintiff,) Case No. C-20-350623-1
14) Dept. No. VI
15 vs.)
16)
17 ANDREW YOUNG,)
18 #1211422)
19 Defendant.)

NOTICE OF APPEAL

20 TO: The Honorable Jacqueline M. Bluth, Eighth Judicial District Court, Dept. VI; and
21 TO: The Office of the District Attorney

22 YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE, that pursuant to NRS 177.075, the
23 Defendant herein, Andrew Young, does hereby appeal the Amended Judgment of Conviction and
24 Sentencing imposed upon him on March 8, 2022, by the Honorable Jacqueline M. Bluth, in the above-
25 referenced matter.

26 DATED this 15th day of March, 2022.

27 YAMPOLSKY & MARGOLIS
28 /s/ Jason R. Margolis, Esq.
MACE J. YAMPOLSKY, ESQ.
Nevada Bar No. 001945
JASON R. MARGOLIS, ESQ.
Nevada Bar No. 012439
625 South Sixth Street
Las Vegas, Nevada 89101
Attorney for Defendant

1 **CERTIFICATE OF SERVICE**

2 A copy of the foregoing **NOTICE OF APPEAL**, was served upon counsel of record via Electronic
3 Case Filing, as well as first class mail on this 15th day of March, 2022, as follows:

4 Parker Brooks
5 Deputy District Attorney
6 E-Mail: Parker.brooks@clarkcountyda.com

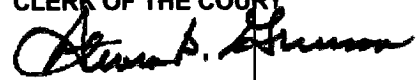
6 Skylar Sullivan
7 Deputy District Attorney
8 E-Mail Skylar.Sullivan@clarkcountyda.com

8 The Honorable Jacqueline M. Bluth
9 DISTRICT COURT, DEPARTMENT VI
10 E-Mail: dept06lc@clarkcountycourts.us

10 Nancy Lemcke, Esq.
11 E-Mail: nancy.lemcke@lemckelawlv.com

12 Office of the Attorney General
13 555 E. Washington Avenue, Suite 3900
14 Las Vegas, Nevada 89101

13 /s/ Theresa J. Muzgay
14 An employee of
15 YAMPOLSKY & MARGOLIS



1 OML
2 DAVID R. FISCHER, ESQ.
3 Nevada Bar No. 10348
4 LAW OFFICE OF DAVID R. FISCHER
5 400 South 4th Street, Suite 500
6 Las Vegas, Nevada 89101
7 Telephone: 702) 547-3944
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9 admin@fischerlawlv.com
10 Attorney for Defendant Andrew Young

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 ANDREW YOUNG,
13 Defendant.

Case No. C-20-350623-1

Department No. III

**OPPOSITION TO THE STATE'S
MOTION IN LIMINE TO ADMIT
EVIDENCE UNDER RES GESTAE
OR EVIDENCE RELATED TO
OTHER CRIMES**

15 COMES NOW the Defendant, ANDREW YOUNG, by and through his attorney, DAVID
16 R. FISCHER, ESQ., and respectfully files the following Opposition to the State's Motion in
17 Limine to Admit Certain Evidence Under the Doctrine of Res Gestae, or in the Alternative State's
18 Motion to Admit Evidence Related to Other Crimes.

19 DATED this 8th day of April, 2021.

20 LAW OFFICE OF DAVID R. FISCHER

21 /s/ David R Fischer

22 DAVID R. FISCHER, ESQ.

23 400 South 4th Street, Suite 500

24 Las Vegas, Nevada 89101

Attorney for Defendant ANDREW YOUNG

1 **POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 ANDREW YOUNG (hereinafter “YOUNG”) renews his request, in part, for the Court to
4 exclude any and all evidence from any and all unrelated acts uncharged in the instant case in
5 addition to the settled matter of severing previous counts 17, battery with use of a deadly weapon
6 resulting in substantial bodily harm, and count 18, attempt murder with use of a deadly weapon,
7 which are now listed in the States Amended Superseding Indictment as counts 23 and 24, from
8 the 12 counts of burglary, 4 counts of larceny, 1 count of grand larceny, and 5 counts of fraudulent
9 use of credit or debit card because they were not based on the same act or transaction, they did
10 not constitute parts of a common scheme or plan, and they were not connected together.

11 Furthermore, this Court previously granted YOUNG’s Motion to Sever the counts 17-18
12 (reshuffled indictment now counts 23-24, severing July 26, 2020, “rock beating” incident from
13 remaining counts). The basis being to prevent the unfair prejudice by the potential reverse
14 spillover effect that would arise if the jury was presented with video evidence captured on indoor
15 surveillance cameras with much greater clarity (respecting the gravamen of states case, 22 theft-
16 related counts) when compared to the extremely lower quality outdoor surveillance respcting the
17 2 counts and related evidence.

18 Consequently, the central issue at play in counts 23 and 24 was and still remains whether
19 YOUNG in fact is the perpetrator in these particular counts, these counts are highly contested
20 through YOUNG’s alibi. In addition, it strains reason to understand how State attempts to
21 “connect up” the very same incident with its request to admit uncharged or other evidence under
22 res gestae doctrine where this Court previously granted the severance because of the substantial
23 prejudice to YOUNG that would result if a jury were allowed to hear evidence regarding Counts
24

1 17-18 (now 23-24). Allowing such evidence REMAINS manifestly prejudicial to YOUNG
2 outweighing any probative value. The state attempts to provide its rationale, but it is misplaced,
3 overlooking YOUNG's fundamental due process rights with reasons of judicial economy. In
4 summation, the evidence the State seeks to admit from the first 22 counts of its Amended
5 Superseding Indictment is not relevant to counts 23 and 24, it is therefore highly prejudicial, and
6 it meets none of the enumerated exceptions recognized by this Court.

7 **II. PROCEDURAL HISTORY**

8 The instant matter originated in Las Vegas Justice Court, Department 14, when on August
9 5, 2020, YOUNG was charged in a two-count criminal complaint alleging one count of battery
10 with use of a deadly weapon resulting in substantial bodily harm and one count of attempt murder
11 with use of a deadly weapon. On September 10, 2020, the State obtained a Grand Jury Return
12 and Indictment was filed against YOUNG alleging the same one count of battery with use of a
13 deadly weapon resulting in substantial bodily harm and one count of attempt murder with use of
14 a deadly weapon which was filed in District Court on September 10, 2020.

15 On October 1, 2020, the State filed a Superseding Indictment and on the same day an
16 Amended Superseding Indictment containing 24 alleged counts against YOUNG including the
17 two that were originally filed in Justice Court then later filed in this Court separately and then
18 ultimately combined with 22 completely unrelated alleged counts.

19 On February 22, 2021, the State filed a Notice of Habitual Criminal.

20 On February 28, 2021, YOUNG filed a Motion to Sever Counts 17 and 18 from the
21 remaining 22 counts of the State's Amended Superseding Indictment. This honorable Court
22 subsequently granted YOUNG's Motion. On March 29, 2021, the State filed another Amended
23 Superseding Indictment which confusingly still included the counts this Court previously ordered
24

1 severed. On that same date, the State filed a Motion in Limine to Admit Certain Evidence Under
2 the Doctrine of Res Gestae. The state's motion is timely filed. N.R.Cr.P. 8 re: filing of pretrial/in
3 limine motions.

4 This case is currently set for central Jury Trial on April 19, 2021. YOUNG's instant
5 opposition follows timely. N.R.Cr.P. 8 re: filing deadline for opposition to pretrial/in limine
6 motion.

7 III. FACTS

8 YOUNG stands charged of several counts of burglary (counts 1, 4, 6, 7, 9, 11, 13, 15, 17,
9 19, 21, 22), larceny (counts 2, 8, 10, 16), grand larceny (count 3), and fraudulent use of credit or
10 debit card (counts 5, 12, 14, 18, 20). Further, he faces charges for one count of battery with use
11 of a deadly weapon resulting in substantial bodily harm (count 23) and one count of attempt
12 murder with use of a deadly weapon (count 24). In total, YOUNG faces 24 counts.

13 According to the Declaration of Warrant/Summons (DWS), Detective Byrd investigated
14 an incident involving Robert Will and an unknown assailant that occurred on 7/26/2020 at
15 approximately 12:44 a.m. DWS 1. Detective Byrd's sworn affidavit describes the incident as
16 follows: "Robert was sitting at the bus bench located outside the Paris Hotel...when an altercation
17 took place between him and the [unknown assailant who]...used a large rock and bludgeoned the
18 victim in the head multiple times." DWS 1. The assailant then left the scene but was described
19 as a black male adult in his 50s or 60s wearing a grey shirt and black jeans. DWS 1. Video
20 evidence of this incident was not initially obtained by detectives. DWS 1-3. However, Fusion
21 Watch video showed a suspect walking in the same direction that victim's assailant headed after
22 the incident, but the suspect's clothing did not match what witnesses reported the assailant was
23 wearing at the scene of the incident. DWS 1-3. Even though the Fusion Watch video did not
24

1 capture the incident, was not high quality, and depicted a suspect wearing articles of clothing that
2 did not match those witnesses observed during Mr. Will's incident, Detective Jacobitz authored
3 and distributed a critical reach flyer using images from that surveillance footage. DWS 3.

4 Meanwhile, Detective Byrd was investigating YOUNG for alleged larceny and fraudulent
5 use of credit card arising out of an incident on July 8 inside a Walmart. DWS 3. After Detective
6 Byrd viewed the critical reach flyer Detective Jacobitz circulated, Detective Byrd thought
7 YOUNG was the individual depicted in the critical reach flyer. DWS 3. With YOUNG now the
8 target of the investigation, detectives reviewed more video from the Cosmopolitan and from Paris
9 Hotel and located video of the battery incident however it was very low quality. DWS 4.

10 The State's indictment charges YOUNG with an alleged series of non-violent acts that
11 took place inside local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar's
12 Palace, Albertson's, GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel &
13 Casino) on the following dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9. However, the
14 indictment alleges YOUNG committed a violent battery and attempted murder that occurred on
15 July 26th, outdoors at a bus stop, and involved the use of a deadly weapon (a rock).

16 **IV. APPLICABLE LAW**

17 Pursuant to the *res gestae* doctrine:

18 “when several crimes are intermixed or blended with one another, or connected such that
19 they form an indivisible criminal transaction, and when full proof by testimony, whether
20 direct or circumstantial, or any one of them cannot be given without showing the others,
evidence of any or all of them is admissible against a defendant on trial for any offense
which is itself a detail of the whole criminal scheme.”

21 *Allan v. State*, 92 Nev. 318, 321, 549 P.2d 1402, 1404 (1976) (citing *People v. Thomas*, 3
22 Cal.App.3d 859, 83 Cal.Rptr. 879 (1970)). In *State v. Shade*, 111 Nev. 887, 894, 900 P.2d 327,
23 331 (1995), the Nevada Supreme Court revisited the applicability of the *res gestae* doctrine and
24 explained that:

1 “In reading NRS 48.035 as a whole, it is clear that where the *res gestae* doctrine is
2 applicable ... the controlling question is whether witnesses can describe the crime charged
3 without referring to related uncharged acts. If the court determines that testimony relevant
to the charged crime cannot be introduced without reference to uncharged acts, it must not
exclude the evidence of the uncharged acts.”

4 (Footnote omitted.) In *Shade*, the Court held that the district court erred in excluding evidence of
5 Shade's uncharged heroin purchase because this purchase occurred contemporaneously with the
6 offenses for which Shade was charged, arose out of the same transaction, involved the same
7 participants, and “was inextricably intertwined with the charged crimes and completed the
8 story leading up to Shade's ultimate arrest.” *Id.* at 895, 900 P.2d at 331.

9 Additionally, in *Newman v. State*, the Nevada Supreme Court explained that:

10 “NRS 48.045(2) prohibits the use of evidence of “other crimes, wrongs or acts ... to prove
11 the character of a person in order to show that the person acted in conformity therewith.”
Such evidence “may, however, be admissible for other purposes, such as proof of motive,
12 opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or
accident.” *Id.* NRS 48.045(2)'s list of permissible nonpropensity uses for prior-bad-act
13 evidence is not exhaustive. *Bigpond v. State*, 128 Nev. —, —, 270 P.3d 1244, 1249
(2012). Nonetheless, while “evidence of ‘other crimes, wrongs or acts’ may be admitted
14 ... for a relevant nonpropensity purpose,” *id.* (quoting NRS 48.045(2)), “‘[t]he use of
uncharged bad act evidence to convict a defendant [remains] heavily disfavored in
our criminal justice system because bad acts are often irrelevant and prejudicial and
force the accused to defend against vague and unsubstantiated charges.’
15 ” *Id.* (quoting *Tavares v. State*, 117 Nev. 725, 730, 30 P.3d 1128, 1131 (2001)). Thus, “
‘[a] presumption of inadmissibility attaches to all prior bad act
evidence.’ ” *Id.* (quoting *Rosky v. State*, 121 Nev. 184, 195, 111 P.3d 690, 697 (2005)).”

16
17 (Emphasis added.) *Id.* 298 P.3d 1171, 1178 (Nev. 2013).

18 However, the Nevada Revised Statutes, of course, allow for the use of alleged other bad
19 acts in certain limited circumstances and for certain limited purposes. NRS. 48.045. Prior to
20 allowing the introduction of such evidence, the trial court must first determine whether:

21 “(1) the incident is relevant to the crime charged; (2) the act is proven by clear and convincing
22 evidence; and (3) the probative value of the evidence is not substantially outweighed by the danger
23 of unfair prejudice.” *Tinch v. State*, 113 Nev. 1170 1176, 946 P.2d 1061,1064-65 (1997).

1 **V. ANALYSIS**

2 First and foremost, the issue(s) presented in the State’s Motion in Limine to Admit Certain
3 Evidence Under the Doctrine of Res Gestae, or in the Alternative State’s Motion to Admit
4 Evidence Related to Other Crimes seems to be, at best, moot¹ as this Court has already ruled that
5 severance was appropriate, to avoid any unjust spillover effect posed by the improper joinder in
6 the first place. Said prejudicial spillover effect remains at issue both in terms of improper joinder
7 and in the State’s current attempt to use uncharged² bad act evidence **to aid its conviction efforts**
8 **of YOUNG for an incident for which there is no real evidence sufficient to convict YOUNG.**

9 **The Nevada Supreme Court explained that, “[t]he use of uncharged bad act evidence**
10 **to convict a defendant [remains] heavily disfavored in our criminal justice system because**
11 **bad acts are often irrelevant and prejudicial and force the accused to defend against vague**
12 **and unsubstantiated charges.”** *Newman v. State* 298 P.3d 1171, 1178. (Emphasis added.) And
13 that, “[a] presumption of inadmissibility attaches to all prior bad act evidence.” *Id.*

14 To the extent that this Court will revisit this issue and consider the arguments set out in
15 the State’s Motion, YOUNG submits the following in opposition.

16 **A. Res Gestae Doctrine, Complete Story: Counts 23 and 24 are in no way**
17 **interconnected, let alone to a degree that witnesses and evidence cannot describe**
18 **the acts in controversy, or the crimes charged without referring to the other acts**
19 **or crimes.**

20 Importantly, the State principally relies on *res gestae* doctrine throughout its Motion and
21 specifically invokes rules outlined in *State v. Shade*. However, this case is distinguishable
22 from *Shade* in several important respects. In *Shade*, the State could not introduce evidence of the

23 ¹ In effect, state’s motion is a veiled motion to reconsider this honorable
24 Court’s previous ruling to sever counts 17 and 18.

² Or charged bad acts from a separate and unrelated case.

1 charged offenses without reference to Shade's uncharged heroin purchase; here the State can
2 easily introduce all of its evidence for the charged crimes in counts 23 and 24 without introducing
3 the video or still imagery connected with the first 22 counts. Moreover, in *Shade*, the State could
4 not effectively prosecute Shade on any of the charged offenses without proffering evidence of
5 Shade's uncharged heroin purchase and concomitant police surveillance activity; in the instant
6 case, the State's case against YOUNG in counts 23 and 24 is in no way predicated upon the now
7 severed charges in the first 22 counts.

8 Similarly, the State cites *Allan v. State* in its Motion, but the facts from that case are also
9 distinguishable from those in the instant case. In *Allan*, “the testimony regarding the additional
10 acts of fellatio, as well as the act of masturbation, was admissible as part of the *res gestae* of the
11 crime charged. Testimony regarding such acts is admissible because the acts complete the story
12 of the crime charged by proving the **immediate context of happenings near in time and place**.
13 Such evidence has been characterized as the same transaction or the *res gestae*.” *Allan v. State*,
14 549 P.2d 1402, 1403 (Nev. 1976). In *Allan*, the acts the Court admitted occurred immediately
15 before and or after the crimes Allan was charged with and the acts, both charged and uncharged,
16 were so closely related that witnesses could not describe the crime Allan was charged with without
17 referring to related uncharged acts.

18 This simply is not the case here. There is no evidence relevant to the first 22 counts that
19 are also relevant in counts 23 and 24 aside from the State’s claim that all 24 counts were crimes
20 allegedly committed by YOUNG. Otherwise, the alleged crimes in the first 22 counts all took
21 place at different times and locations and importantly involved completely different alleged
22 criminal activity than those charged in counts 23 and 24.

1 The State's res gestae arguments are not very compelling. YOUNG respectfully asks this
2 Court to reject the State's res gestae arguments and exclude any and all evidence from any and
3 all unrelated acts uncharged in the instant case (counts 23 and 24).

4 **B. Common Scheme or Plan: Counts 23 and 24 share absolutely no articulable**
5 **common scheme or plan with the remaining 12 counts of burglary, 4 counts of**
6 **larceny, 1 count of grand larceny, and 5 counts of fraudulent use of credit or debit**
7 **card.**

8 The State's indictment charges YOUNG with an alleged series of non-violent acts that
9 took place inside local stores and casinos (Rampart Hotel & Casino, 7-11, Walmart, Caesar's
10 Palace, Albertson's, GameStop, Walgreens, Flamingo Hotel & Casino, and Suncoast Hotel &
11 Casino) on the following dates: June 29, July 8, 22, 23, and 29, August 1, 7, and 9. However, the
12 same indictment alleges YOUNG committed a violent battery and attempted murder that occurred
13 on July 26th, outdoors at a bus stop, and involved the use of a deadly weapon (a rock).

14 The State does not allege that YOUNG used a rock or any other deadly weapon or violence
15 of any sort in the alleged series of non-violent acts that took place inside local stores and casinos.
16 Likewise, the State does not allege the series of non-violent acts that allegedly took place inside
17 local stores and casinos ever involved any sort of battery or attempted murder; however, much to
18 the contrary counts 23 and 24 allegedly involve violent acts with no nexus between the alleged
19 violence described in counts 23 and 24 with any further allegations that those acts involved any
20 attempts at fraud or theft.

21 With no common scheme or plan between counts 23 and 24 linking them to the remaining
22 22 counts, the Court should exclude any and all evidence from any and all unrelated acts
23 uncharged in the instant case (counts 23 and 24).

24 **C. Prejudice: Admitting evidence related to other crimes here would be manifestly**
prejudicial and would allow the jury to convict YOUNG using video evidence and
a series of other bad act evidence that is irrelevant and otherwise inadmissible.

1 Evidence of other bad acts cannot be admitted for the purpose of proving that the
2 defendant has a certain character trait and that he acted in conformity with that trait on the
3 occasion in question. NRS 48.045(1). However, the evidence may be admitted for other
4 purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, and
5 absence of mistake or accident. NRS 48.045(2).

6 Prior to admitting evidence, the trial court must conduct a *Petrocelli* hearing and
7 determine that the *Tinch* factors are met. The prior bad acts must be relevant to the charged
8 crimes, the State must prove them by clear and convincing evidence, and their probative value
9 must not be substantially outweighed by the danger of unfair prejudice. *Qualls v. State*, 114 Nev.
10 900, 902, 961 P.2d 765, 766 (1998).

11 Using other bad acts to show criminal propensity is forbidden and is commonly viewed
12 as grounds for reversal. *Braunstein v. Nev.*, 118 Nev. 68, 73, 40 P.3d 413, 417 (2002) (citing
13 *Roever v. State*, 114 Nev. 867, 872, 963 P.2d 503, 506 (1998)). The Nevada Supreme Court has
14 noted with criticism that, in practice, “we have seen a broad interpretation of the exceptions
15 contained in NRS 48.045” and that “too often, the district courts are willing to permit the
16 admission of [other] bad act evidence.” *Weber v. State*, 121 Nev. 554, 589, 119 P.3d 107, 131
17 (2005).

18 In the present case, the State is prosecuting YOUNG for an alleged series of burglary
19 (counts 1, 4, 6, 7, 9, 11, 13, 15, 17, 19, 21, 22), larceny (counts 2, 8, 10, 16), grand larceny (count
20 3), and fraudulent use of credit or debit card (counts 5, 12, 14, 18, 20) along with two very
21 different crimes, 1 count of battery with use of a deadly weapon resulting in substantial bodily
22 harm (count 23) and 1 count of attempt murder with use of a deadly weapon (count 24). To help
23 prove its case, the State seeks to introduce evidence from the first 22 counts in its now severed
24

1 case charging the remaining counts 23 and 24. This Court should not permit the evidence to come
2 in under NRS 48.045(2) because the crimes in the first 22 counts of the indictment are far too
3 dissimilar to counts 23 and 24 as explained above.

4 The State's attempt at joinder in this case is in violation of the rule against character
5 evidence and is purely prejudicial when it's being used as the State seems to do here to bolster
6 identity issues in counts 23 and 24. In an attempt to unfairly overcome its identity issues in counts
7 23 and 24 and ultimately obtain an unfair conviction against YOUNG, the State first sought to
8 join the other 22 counts, which involves better video evidence that a jury may find more
9 compelling and now the State seeks to bring in the same evidence that this Court has already
10 essentially excluded by severing counts 23 and 24 from the other counts.

11 The manifestly prejudicial effect described here would allow the jury to convict YOUNG
12 using video evidence and a series of other uncharged acts that have already been severed and
13 should otherwise remain wholly inadmissible for any purpose. Thus, YOUNG respectfully asks
14 this Court to reject the State's arguments to admit evidence of other bad acts and exclude any and
15 all evidence from any and all unrelated acts uncharged in the instant case (counts 23 and 24).

16 VI. CONCLUSION

17 In sum, this Court settled the matter of joinder of counts 23 and 24 with the other 22 counts
18 based on arguments set forth by YOUNG which claimed joinder was done in violation of the rule
19 against character evidence and was purely prejudicial when it was being used to bolster identity
20 issues in its weakest counts 23 and 24 by joining them with the stronger 22 counts. Joinder was
21 clearly prejudicial, as is admitting evidence related to other crimes.

22 For all the foregoing reasons, YOUNG respectfully requests that this Court deny the
23 State's Motion in Limine to Admit Certain Evidence Under the Doctrine of Res Gestae, or in the
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Alternative State's Motion to Admit Evidence Related to Other Crimes and exclude any and all evidence from any and all unrelated acts uncharged in the instant case (counts 23 and 24).

DATED this 8th day of April, 2021.

LAW OFFICE OF DAVID R. FISCHER

/s/ David R Fischer
DAVID R. FISCHER, ESQ.
400 South 4th Street, Suite 500
Las Vegas, Nevada 89101
Attorney for Defendant ANDREW YOUNG

CERTIFICATE OF SERVICE VIA ELECTRONIC TRANSMISSION

I HEREBY CERTIFY that I am an employee or agent of DAVID R. FISCHER, Esq.,
and that on the 8th day of April 2021, I served the foregoing **OPPOSITION TO THE
STATE’S MOTION IN LIMINE TO ADMIT EVIDENCE UNDER RES GESTAE OR
EVIDENCE RELATED TO OTHER CRIMES** through service by electronic filing, to the
following person(s), or his/their agent, at the following address(es):

Parker.Brooks@clarkcountyda.com
motions@clarkcountyda.com
dept03lc@clarkcountycourts.us

/s/ David R. Fischer

an employee or agent of David R. Fischer, Esq.

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1 **ORDER**
2 DAVID R. FISCHER, ESQ.
3 Nevada Bar No. 10348
4 LAW OFFICE OF DAVID R. FISCHER
5 400 South 4th Street, Suite 500
6 Las Vegas, Nevada 89101
7 Telephone: (702) 547-3944
8 Facsimile: (702) 974-1458
9 admin@fischerlawlv.com
10 *Attorney for Defendant ANDREW YOUNG*

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 ANDREW YOUNG,
13 Defendant.

Case No. C-20-350623-1

Department No. III

14 **ORDER GRANTING DEFENDANT'S MOTION TO SEVER COUNTS**

15 DATE OF HEARING: 3/17/21
16 TIME OF HEARING: 8:30 A.M.

17 THIS MATTER having come on for hearing before the above entitled Court on the
18 17th day of March, 2021, the Defendant ANDREW YOUNG, REPRESENTED BY
19 DAVID R. FISCHER and the Plaintiff being represented by STEVEN B. WOLFSON,
20 District Attorney, through NOREEN DEMONTE, Chief Deputy District Attorney, and
21 the Court having considered the pleadings on file, after hearing the arguments of counsel
22 and good cause appearing therefore,

23 / / /

24 / / /

1 IT IS HEREBY ORDERED that the Defendant's Motion to Sever Counts 17 and
2 18, shall be, and it is GRANTED.

3 DATED this _____ day of March, 2021.

The Court finds that the prejudice to the
defendant outweighs the concerns for judicial
economy. The Court also finds that the acts are
not so closely intertwined that you cannot tell one
story without the other and the acts are not part of
the same act, transaction, or common scheme or
plan.

Dated this 6th day of April, 2021

6 
MONICA TRUJILLO
7 DISTRICT COURT JUDGE

8 61A EF4 2FA4 4BB0
Monica Trujillo
District Court Judge

9 LAW OFFICE OF DAVID R. FISCHER

10
11 /s/ David R Fischer

12 DAVID R. FISCHER, ESQ.
13 400 South 4th Street, Suite 500
Las Vegas, Nevada 89101
14 *Attorney for Defendant ANDREW YOUNG*

1 CSERV

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 THE STATE OF NEVADA,
5 Plaintiff,

Case No. C-20-350623-1

Department No. III

6 vs.

7 ANDREW YOUNG,
8 Defendant.

9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District Court.
11 The foregoing Order Granting Motion was served via the court's electronic eFile system to all
12 recipients registered for e-Service on the above entitled case as listed below:

13 Service Date: 3/23/2021

14 Noreen DeMonte

noreen.demonte@clarkcountyda.com

15 Dept Law Clerk

Dept03LC@clarkcountycourts.us

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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

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6 State of Nevada

CASE NO: C-20-350623-1

7 vs

DEPT. NO. Department 3

8 Andrew Young
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/6/2021

15 David Fischer

dfischer@fischerlawlv.com

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 PARKER BROOKS
6 Deputy District Attorney
7 Nevada Bar #011927
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,
12 -vs-
13 ANDREW YOUNG #1211422
14 Defendant.

CASE NO: C-20-350623-1
DEPT NO: VI

**ORDER GRANTING STATE'S MOTION TO ADMIT CERTAIN EVIDENCE
UNDER THE DOCTRINE OF RES GESTAE, OR IN THE ALTERNATIVE
STATE'S MOTION TO ADMIT EVIDENCE RELATED TO OTHER CRIMES**

DATE OF HEARING: April 12, 2021
TIME OF HEARING: 08:30 A.M.

19 THIS MATTER having come on for hearing before the above-entitled Court on the
20 12th day of April, 2021, the Defendant not being present, DAVID R. FISCHER, ESQ., the
21 Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through PARKER
22 BROOKS, Deputy District Attorney, and the Court having heard the arguments of counsel
23 and good cause appearing therefor,

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1 IT IS HEREBY ORDERED that the State's Motion to Admit Certain Evidence Under the
2 Doctrine of Res Gestae, or in the Alternative, State's Motion to Admit Evidence Related to
3 Other Crimes, shall be, and it is GRANTED because that was the only way Detective Byrd
4 was able to prepare the Declaration of Arrest from the identity of the other burglary events.

5 The Court severed Counts 23 and 24 from the first 22 counts. However, in the trial for
6 counts 23 and 24, the State is permitted to introduce photos and videos of the Defendant from
7 the burglary and associated counts that were severed.

8 Detective Byrd and/or other officers will be permitted to identify defendant in those
9 various photos or videos during the summer months of 2020.

10 Detective Byrd relied on these photos and videos and his familiarity with Defendant
11 when preparing the Declaration of Arrest for the Attempt Murder related counts.

12 The Court understands that Defendant's interaction with law enforcement at a Walmart
13 on July 8, 2020 was crucial to confirming the identity of Defendant. Thus, the surveillance
14 footage from Walmart and/or the body cam will be permitted as well as the officers being
15 able to say that they confirmed Defendant's identity on that date and time in those
16 photos. However, the Court is concerned about the body cam footage and certain angles. The
17 Court does not want the angles of the body camera footage in front of the patrol vehicle and
18 other angles to be prejudicial. Thus, the State should crop, cut, and alter that particular video
19 and show it to the court prior to admission.

20 Additionally, the videos and photos from the other dates and events should be sanitized
21 not to show any of the criminal conduct. Any witness or officer that testifies about the identity
22 of Defendant in these photos and videos is not permitted to discuss any criminal conduct or
23 associated incidents that surrounded these photos or videos.

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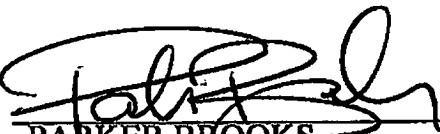
1 The Court believes that the prejudice to the Defendant is removed when the photos or
2 videos are sanitized and the witnesses are instructed only to discuss identity without reference
3 to the criminal conduct that resulted in obtaining these videos.

4
5 DATED this _____ day of April, 2021. Dated this 23rd day of April, 2021

6 
7 _____
8 DISTRICT JUDGE

8 STEVEN B. WOLFSON
9 Clark County District Attorney
10 Nevada Bar #001565

5D8 6F1 FB0A BA02
Monica Trujillo
District Court Judge

11 BY 
12 PARKER BROOKS
13 Deputy District Attorney
14 Nevada Bar #011927

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1 **CSERV**

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3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

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6 **State of Nevada**

CASE NO: C-20-350623-1

7 **vs**

DEPT. NO. Department 6

8 **Andrew Young**

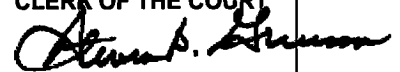
9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 **Service Date: 4/23/2021**

15 **David Fischer**

dfischer@fischerlawlv.com



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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,
vs.
ANDREW YOUNG,
Defendant.

CASE#: C-20-350623-1
DEPT. VI

BEFORE THE HONORABLE JACQUELINE M. BLUTH
DISTRICT COURT JUDGE
TUESDAY, FEBRUARY 8, 2022

RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 1

APPEARANCES

For the Plaintiff: PARKER BROOKS, ESQ.
SKYLER SULLIVAN, ESQ.
For the Defendant: JASON MARGOLIS, ESQ.

RECORDED BY: DELORIS SCOTT, COURT RECORDER

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Las Vegas, Nevada, Tuesday, February 8, 2022

[Case called at 11:20 a.m.]

[In the presence of the Prospective Jurors]

THE COURT: All right. Thank you.

We are on the record in the State of Nevada v. Andrew Young, C-350623. Mr. Young is present with counsel, Mr. Margolis, both Deputy District Attorney's, Mr. Brooks, as well as Ms. Sullivan, are present on behalf of the State.

Do the parties stipulate to the presence of prospective jury panel?

MR. MARGOLIS: Defense does, Your Honor.

MS. SULLIVAN: Yes, Your Honor.

THE COURT: All right. Thank you.

Good morning, everyone. My name is Jacqueline Bluth, I am the presiding Judge here in the 8th Judicial District Court, in Department VI. As you just heard me state, this is the time set for trial in case number C-350623, State of Nevada v. Andrew Young. This is a criminal trial. The record will reflect the presence of Mr. Young with his counsel, and both Deputy District Attorneys are also present.

You have been called upon today -- and just give me one second, please.

[Pause]

THE COURT: Thank you. You have been called upon today to serve as a jury in a criminal case. The charges in this case are battery

1 with use of a deadly weapon, resulting in substantial bodily harm as well
2 as attempt murder with use of a deadly weapon. Ultimately there will be
3 16 of you that will move forward with us as jurors, and alternate jurors in
4 the case. Our trials generally run from about 9:00 a.m. in the morning
5 until 5:00 p.m.

6 In this country we place great faith in our citizens, as jurors,
7 to reach fair and objection decisions. Part of what you're doing here is
8 being good citizens of our country and community. Jury duty is a civic
9 responsibility, like obeying laws, voting and paying taxes. We
10 appreciate the fact that you're here, that you responded to your jury
11 summons, showed up, willing to do your job.

12 I really sincerely do believe it's important in what you're
13 doing here, and I hope that you find this experience to be rewarding.
14 When I say that, in the beginning of every trial, so between trials I did as
15 an attorney, and trials I had done as a judge, I'm almost at the 100 jury
16 trial mark, and every time I say that I know people are either overtly
17 rolling their eyes, or secretly rolling their eyes when I say, "I hope you
18 find this rewarding."

19 But I really mean this, I can tell you, if you are selected, and if
20 you sat through this process, and those of you who have been on a jury
21 before who sit here will probably agree with me, it actually is a very
22 rewarding experience. We just finished a three-week trial a week before
23 last, and the jurors said to me, "I remember when you said it was going
24 to be you rewarding, and I rolled my eyes at you, but it was an incredible
25 experience." So please keep that in mind.

1 Also, keep in mind that I really sincerely know what you're
2 going through. I received a summons and I served as a juror, in a
3 multi-week civil case. And so I recognize the impact that it has away
4 from your family members, away from children, away from friends away
5 from your work, so I do get what you're going through. But before you
6 try to get out of jury service, let me say a few things.

7 So, number one, I would just ask you to think about what if
8 you were a party to a lawsuit and it was important to you, how important
9 would it be to have jurors that were willing to come here and do the job,
10 take it seriously, listen to the information?

11 The second thing which may ring a little more important to
12 you at the moment is, be careful what you wish for. Because if you get
13 out of trial in my department, you may be put to a civil department. In
14 the last few years we have had civil trials that last up to 6, 9, 11 months.

15 So we're going to be here for less than a week. I know that,
16 that seems like a lot of time when you think about it, you know, in the
17 vacuum of your personal time, but the last three or four trials we've done
18 have been all been homicides and those all have lasted almost a month.
19 So in the large scheme of things a week is not as much as the potential,
20 okay.

21 So I'd like to take this opportunity to introduce my court staff.
22 So you've already met my Marshal, and that is Officer Kennis. His job is
23 to maintain order and security in the courtroom; he's also my
24 representative to the jury. So anything you need, or any problems that
25 come up during the trial, need to through him. Please keep in mind that

1 he can talk to you about everything except anything about the actual
2 facts of the trial, he cannot speak to you about anything having to do
3 with the trial itself, like facts, witnesses, evidence, anything like that.

4 So we also have a court recorder, and you will note that
5 there are certain cameras in the room, and they're -- everything we do
6 and say is being recorded. However, jurors' faces are never shown. The
7 cameras are really on for just recordation purposes, and also, when I'm
8 not in here with you guys, I'm doing my normal, what's referred to as a
9 criminal calendar, and that's also done on video. So I don't want the
10 cameras to spook you out, they also have to do with courtroom security;
11 that has nothing to do with you guys, so don't be weirded out by those.

12 And when you watch courts on TV, or older shows, you
13 would always see a court reporter, someone who would be sitting in
14 front of the judge, typing out everything, we no longer have those, we
15 now have court recorders. So everything that we say is being recorded
16 and will later be typed out, or what's referred to as transcribed.

17 The problem with everyday language is we do a lot of things,
18 or everyday communication, we do a lot of things that don't transcend
19 here into the courtroom, so a lot of the times in regular conversation, we
20 say, uh-huh, and huh-uh, and we nod our head, yes, and we nod our
21 head, no, those don't go on the record. So when you guys say "uh-huh"
22 or "huh-uh" or do your head in any type of motion, you'll just hear the
23 attorneys or myself, politely say, was that a, yes, was that a, no, just
24 because we have to make sure that we have that answer on the record.

25 To my far left is my Court Clerk. She basically swears in

1 witnesses, marks exhibits, and keeps track of evidence, and then
2 prepares what's referred to as court minutes of the proceedings, so that
3 they'll be on the Court record. You will also, from time-to-time, see my
4 interns that are sitting next to my right that's Shell and Whitney, they are
5 here from the William S. Boyd School of Law, and they are our interns
6 this semester. So their job is to come in here and observe and ask
7 questions later.

8 And then you'll also see my Judicial Executive Assistant,
9 Ms. Jacobs come in from time to time, as well as my law clerk Nick
10 Hayton. They come in -- they're in the back in my chambers, working
11 through all of the other issues, making sure this process moves
12 smoothly.

13 In a moment, I am going to stand up -- or excuse me, I'm
14 going to have the State stand up and introduce themselves, and they're
15 also going to read a list of witnesses that they may call during the trial.
16 They'll also give you a very short synopsis of their case. Please pay
17 attention to the names of the witnesses that they read off, because in a
18 moment I'm going to ask you if you recognize any of those names.

19 All right. State?

20 MR. BROOKS: Hello. My name's Parker Brooks. I'm a
21 Deputy District Attorney, along with Skylar Sullivan. We are assigned to
22 prosecute the case of Andrew Young, the State of Nevada v. Andrew
23 Young. The events that you'll hear about over the next couple days
24 occurred on, or about July 26th, 2020 here in Las Vegas, Clark County,
25 Nevada outside of the Paris Hotel.

1 Basically you'll hear about a man taking a rock and hitting it
2 over the head of Robert Will, the victim, the main victim in this case.
3 And so based on that conduct, the Defendant, Andrew Young, has been
4 charged with battery with use of a deadly weapon, resulting in
5 substantial bodily harm and attempt murder with use of the deadly
6 weapon -- attempt murder with use of the deadly weapon.

7 So also the next couple days you'll hear from, or about some
8 of these witnesses. We're not going to call all of them, but we're going
9 to read -- I'm going to read you a list of people you might hear, if they
10 did something, or this or that, throughout case. Francisco or Cisco
11 Alemar, Detective Trent Byrd, possibly a different custodian of records
12 for Paris Hotel, William Roed, Custodian Records for Cosmopolitan Hotel,
13 Detective Dominic Cipriano, Officer William Hutchings, Gloria Gruebling,
14 Bianca Eskilson [phonetic] Detective Ethan Grimes, Officer Jesse Jack,
15 Detective Jeremy Jacobitz, Detective Sandy Liske, Officer Jeff Henry,
16 CSA Nolle Herring, Detective Brian Mildebrandt, Laresha Moore, Officer
17 Aric Shin and Officer with Fusion Watch for Las Vegas Metropolitan
18 Police Department, Amber Stringer, Officer Jerry Wheeler, Robert Will
19 and Sergey Ziatugnabed. Thank you.

20 THE COURT: Thank You. Mr. Margolis?

21 MR. MARGOLIS: Thank you, Your Honor. Good morning
22 everyone. My name is Jason Margolis, and I represent Andrew Young.
23 Also at my table as my paralegal, Guadalupe Ortiz, we thank you very
24 much for being here.

25 This case is a pretty simple one. Obviously the charges are

1 serious. I know when I hear attempt murder and battery with a deadly
2 weapon causing substantial bodily harm, it kind of blows my hair back a
3 little bit. So I thank you for your attention, I think at the end of this trial,
4 you will see that the evidence does demonstrate that Mr. Will was hit
5 with a rock, and that Mr. Will is injured, very severely.

6 What I don't believe the evidence will demonstrate beyond a
7 reasonable doubt is that Mr. Young is the man who did it, and with that I
8 thank you for your attention.

9 THE COURT: All right. At this point in time, I am going to
10 call roll of the panel to make sure that everybody is here. When you
11 hear your name, please just say "present" or "here" loud enough so that I
12 can make sure everybody's here.

13 All right. Brandon Pettie?

14 PROSPECTIVE JUROR 006: Here.

15 THE COURT: Jocelyn Shanks?

16 PROSPECTIVE JUROR 007: Here.

17 THE COURT: Mark Paoni?

18 PROSPECTIVE JUROR 009: Here.

19 THE COURT: Kristi Nguyen?

20 PROSPECTIVE JUROR 013: Here.

21 THE COURT: Marieta Reed?

22 PROSPECTIVE JUROR 025: Here.

23 THE COURT: Riley Baird?

24 PROSPECTIVE JUROR 056: Here

25 THE COURT: Tanya Moon?

1 PROSPECTIVE JUROR 078: Here.
2 THE COURT: Garrett Taylor?
3 PROSPECTIVE JUROR 084: Here.
4 THE COURT: Jessica Lee?
5 PROSPECTIVE JUROR 088: Here.
6 THE COURT: Chelsea Crossley?
7 PROSPECTIVE JUROR 090: Here.
8 THE COURT: Jeff Hentges?
9 PROSPECTIVE JUROR 104: Here.
10 THE COURT: Louanne Cdebaca?
11 PROSPECTIVE JUROR 106: Here.
12 THE COURT: Maria Magana?
13 PROSPECTIVE JUROR 109: Here.
14 THE COURT: Del Cano?
15 PROSPECTIVE JUROR 111: Here.
16 THE COURT: Avery Callis?
17 PROSPECTIVE JUROR 133: Here.
18 THE COURT: Tyler Ono?
19 PROSPECTIVE JUROR 139: Here.
20 THE COURT: James Brown?
21 PROSPECTIVE JUROR 155: Here.
22 THE COURT: Kim Wittington?
23 PROSPECTIVE JUROR 179: Here.
24 THE COURT: Richard Wright?
25 PROSPECTIVE JUROR 180: Here.

1 THE COURT: Paul Dudzinski?
2 PROSPECTIVE JUROR 184: Here.
3 THE COURT: Wendy Dunbar?
4 PROSPECTIVE JUROR 185: Here.
5 THE COURT: Chase Cupo?
6 PROSPECTIVE JUROR 188: Here.
7 THE COURT: Iliana Diaz?
8 PROSPECTIVE JUROR 198: Here.
9 THE COURT: Areya Sukasearm?
10 PROSPECTIVE JUROR 205: Here.
11 THE COURT: Samantha Jackson
12 PROSPECTIVE JUROR 207: Here.
13 THE COURT: Colleen Chauncey?
14 PROSPECTIVE JUROR 216: Here.
15 THE COURT: Estacion Cenonito?
16 PROSPECTIVE JUROR 223: Here.
17 THE COURT: Teresa Rath?
18 PROSPECTIVE JUROR 230: Here.
19 THE COURT: Justin Jennetto?
20 PROSPECTIVE JUROR 237: Here.
21 THE COURT: Kevin Jeung?
22 PROSPECTIVE JUROR 245: Here.
23 THE COURT: Twyla Smith?
24 PROSPECTIVE JUROR 247: Here.
25 THE COURT: Tamara Desmarais?

1 PROSPECTIVE JUROR 263: Here.
2 THE COURT: Drew Harris?
3 PROSPECTIVE JUROR 297: Here.
4 THE COURT: Fernando Domantay?
5 PROSPECTIVE JUROR 296: Here.
6 THE COURT: Iris Romero?
7 PROSPECTIVE JUROR 305: Here.
8 THE COURT: Dennis Frehner?
9 PROSPECTIVE JUROR 310: Here.
10 THE COURT: Joseph Maletta?
11 PROSPECTIVE JUROR 007: Here.
12 THE COURT: Samantha Catelo?
13 PROSPECTIVE JUROR 314: Here.
14 THE COURT: Sharie Heier?
15 PROSPECTIVE JUROR 316: Here.
16 THE COURT: Lynne Pfundstein?
17 PROSPECTIVE JUROR 007: Here.
18 THE COURT: Azul Sage?
19 PROSPECTIVE JUROR 319: Chloe Pinkelman?
20 THE COURT: Shia Lam?
21 PROSPECTIVE JUROR 344: Here.
22 THE COURT: Jerilyn Ritter?
23 PROSPECTIVE JUROR 353: Here.
24 THE COURT: Karen Grow?
25 PROSPECTIVE JUROR 361: Here.

1 THE COURT: Michael Spratling?
2 PROSPECTIVE JUROR 364: Here.
3 THE COURT: Ellis Capehart, Jr.?
4 PROSPECTIVE JUROR 365: Here.
5 THE COURT: Benjamin Cormier?
6 PROSPECTIVE JUROR 374: Here.
7 THE COURT: Emily Hedlund?
8 PROSPECTIVE JUROR 375: Here.
9 THE COURT: Daniel Batz?
10 PROSPECTIVE JUROR 380: Here.
11 THE COURT: Michayla Miller?
12 PROSPECTIVE JUROR 383: Here.
13 THE COURT: Stacey Alexander?
14 PROSPECTIVE JUROR 384: Here.
15 THE COURT: Arnel Biales?
16 PROSPECTIVE JUROR 386: Here.
17 THE COURT: And Jenny Cacchione?
18 PROSPECTIVE JUROR 388: Here.
19 THE COURT: All right. Thank you.
20 Okay. Ladies and gentlemen -- well, first of all, is there
21 anyone in the room whose name I did not call; did I miss anybody? All
22 right, showing no response for the record.
23 Is there anyone here who has difficulty hearing, that would
24 like a headset that is there -- it's usually very helpful in those
25 circumstances? Showing no record.

1 All right. Ladies and gentlemen, we're about to begin a
2 process called voir dire, which is the jury selection process. This is part
3 of the case where the parties and their lawyers have the opportunity to
4 get to know a little bit about, you in order to help them come to their
5 own conclusions about your ability to be fair and impartial so that they
6 can decide who they think should be the jurors in this case.

7 This process is done under oath. Can you please stand up
8 and raise your right hand, so the clerk can administer the oath to you, at
9 this point?

10 [The prospective jury was sworn]

11 THE CLERK: Please be seated.

12 THE COURT: Let me talk to you a little bit about the process.
13 So the process will go like this: First, I'm going to ask some general
14 questions while you are all seated in the positions you're in right now.
15 These questions will be directed to everyone, which means in the jury
16 box right here, and members of the audience.

17 After those general questions, the focus of the questions are
18 then going to turn to the first 28 of you. So that are those of you to my
19 right, and then the four of you in that first row, okay. I will ask individual
20 questions of those of you who are seated in the positions I just stated,
21 then each of the lawyers will have more specific questions that they will
22 ask you.

23 Please keep in mind that these questions that you will be
24 asked during this process are not intended in any way to embarrass you
25 or unnecessarily pry into your personal affairs, but it is important that

1 the parties and their attorneys know enough about you to make this
2 important decision. There are no right or wrong answers to the
3 questions that will be asked of you. The only thing I ask is that you
4 answer the questions as honestly, and completely as you can.

5 You will take an oath -- or excuse me. You have just taken an
6 oath to answer all the questions truthfully, and you must do so.
7 Remaining silent when you have information you should disclose is a
8 violation of that oath, as well. If a juror violates this oath, it is -- not only
9 may result in having to try the case all over again, but it also can result in
10 penalties against the juror, personally. So again, it is very important that
11 you be as honest and complete with your answers as possible. If you
12 don't understand a question, please ask for an explanation or
13 clarification.

14 At some point during the process of selecting a jury the
15 attorneys for both sides will have the right to ask that a particular person
16 not serve as a juror that is called a "challenge." There are two types of
17 challenges. The first type of challenge is referred to as "a challenge for
18 cause." A challenge for cause is a request to excuse the juror, because
19 the juror might have a difficult time being fair and impartial in this
20 particular case.

21 The second type of challenge is what's referred to as a
22 "peremptory challenge." A peremptory challenge means that a juror can
23 be excused from duty without counsel having to give a reason for the
24 excusal. In this case, each side will be given six peremptory challenges.
25 Please do not be offended should you be excused by either of the

1 challenging procedures, they are simply a part of the procedures
2 designed to assist the parties and their attorneys in selecting a fair and
3 impartial jury.

4 Once all the challenges are exercised we will have 16
5 qualified jurors. Four of those 16 will be designated as alternates, and
6 then the 12 remaining jurors will deliberate in the case. However, the
7 alternates are randomly selected, so you won't know which of you are
8 the alternates, so please make sure if you're selected, you're paying
9 attention.

10 I am now going to ask some questions of the entire group. If
11 you wish to respond to a question, please raise your hand, and when I
12 get to you please give your name and the last three digits of your badge
13 number, which are on the jury summons; so if you could get your jury
14 summons out, please.

15 All right. First question. Is there anyone here who has a
16 disability or a medical issue that might impact your ability to serve as a
17 juror in this case, a disability or a medical issue? All right. Ma'am just
18 wait until I get the microphone to you. And are you Chelsea Crossley?

19 PROSPECTIVE JUROR 090: Yes.

20 THE COURT: All right. Badge number 090. Yes, Ms.
21 Crossley?

22 PROSPECTIVE JUROR 090: I'm a Type 1 diabetic and have a
23 glucose monitor and an insulin pump that might go off sporadically.

24 THE COURT: Okay. Anyone else, medical disability? And
25 then we have two in the background. Officer Kennis, when you're

1 ready?

2 THE MARSHAL: We have 301 right here, Judge.

3 THE COURT: Oh, I apologize, I didn't see.

4 PROSPECTIVE JUROR 301: I don't know if you would call it a
5 disability, but I have chronic [indiscernible].

6 THE COURT: Okay. And this is --

7 PROSPECTIVE JUROR 106: So --

8 THE COURT: -- Ms. Louanne Cdebaca, 106.

9 PROSPECTIVE JUROR 106: Yes.

10 THE COURT: And say I'm so just the spasms in your voice?

11 PROSPECTIVE JUROR 106: Yes.

12 THE COURT: Okay. And so is that it just affects you in your
13 ability to speak?

14 PROSPECTIVE JUROR 106: Yeah.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 106: But it makes me hard to
17 understand.

18 THE COURT: Yeah. Well, I can understand you just fine, I
19 appreciate that. Thank you.

20 And then two in the back, please, Officer Kennis.

21 PROSPECTIVE JUROR 247: Hi. My name is Twila Smith. I
22 was diagnosed with breast cancer in 2017, so I have ongoing treatment
23 all the time.

24 THE COURT: Okay. Ms. Smith, 247?

25 PROSPECTIVE JUROR 247: Yes.

1 THE COURT: And when you say, "ongoing treatment," what
2 treatment do you have in the next five days?

3 PROSPECTIVE JUROR 247: Well, I don't have anything in the
4 next five days, so I'm okay for now.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR 247: My next one is April.

7 THE COURT: Okay. Thank you.

8 PROSPECTIVE JUROR 247: You're welcome.

9 THE COURT: And then there was someone behind Ms.
10 Smith?

11 PROSPECTIVE JUROR 247: Anybody over here?

12 THE COURT: Yes, sir?

13 PROSPECTIVE JUROR 298: Fernando Domantay, badge ID
14 number 0298.

15 THE COURT: Yes, sir.

16 PROSPECTIVE JUROR 298: Currently on PTSD, 100 percent
17 disability, and high blood pressures, and diabetic, and cholesterol.

18 THE COURT: And then is your disability due to the PTSD?

19 PROSPECTIVE JUROR 298: Yes.

20 THE COURT: Thank you.

21 THE COURT: Is, is there anyone here who is not a United
22 States citizen? Not a United States citizen? Showing no response for the
23 record.

24 THE MARSHAL: Judge, we just have one more.

25 THE COURT: Oh, I apologize. I didn't see a hand. Yes, sir.

1 Name and badge number?

2 PROSPECTIVE JUROR 364: Michael Spratling, badge
3 number 875 [sic]. I'm diabetic and currently under treatment for
4 Hepatitis C.

5 THE COURT: All right. Spratling is 364.

6 PROSPECTIVE JUROR 364: Okay, I'm sorry.

7 THE COURT: That's okay. Okay, so diabetic and -- what was
8 the first thing you stated, sir?

9 PROSPECTIVE JUROR 364: Oh, yes, it's diabetic, so I have --
10 so I have to take and insulin, and I have meter, as well. But I'm under
11 treatment for Hepatitis C, too. I have to take certain medication and I
12 have to get lab, you know, I have to go to the hospital, get my labs and
13 stuff like that done currently.

14 THE COURT: Okay. And what do you have to do in the next
15 five days?

16 PROSPECTIVE JUROR 364: In the next five days?

17 THE COURT: Yes?

18 PROSPECTIVE JUROR 364: Nothing in the next five days.

19 THE COURT: Okay. Anything between now and next
20 Tuesday?

21 PROSPECTIVE JUROR 364: No.

22 THE COURT: Okay. Did I miss any other hands?

23 THE MARSHAL: We just have one more, Judge.

24 THE COURT: My name is Azul Sage, badge number 0324.

25 PROSPECTIVE JUROR 324: Yes, ma'am?

1 THE COURT: And I have uterine fibroids, and sometimes it
2 causes me to bleed significantly, and I need to use the restroom every
3 30 minutes to every hour.

4 THE COURT: Okay. And when was the last time you dealt
5 with that situation, with the bleeding?

6 PROSPECTIVE JUROR 324: Right now.

7 THE COURT: Okay. All right. Any other hands, I guess?

8 My next question. Is there anyone here who has been
9 convicted of a felony, convicted of a felony showing no response? We
10 anticipate this case is going to last less than a week. I recognize that
11 serving on a jury is almost always a personal or financial hardship, for
12 that reason, unfortunately, financial hardship is not a considered an
13 excuse to serving as a juror in the Eighth Judicial District Court.

14 However, you might be confronted with unique
15 inconveniences or hardships that would impact your service in this
16 particular trial, at this particular time. In a moment, I'm going to ask the
17 following question: Is there anyone who has an extraordinary reason
18 why he or she cannot serve as a juror in this case?

19 So let me give you an example of extraordinary reasons: 1)
20 you're a full-time student; 2) you have out-of-state travel, where you can
21 show me either hotel tickets, plane, train, bus, anything like that within
22 the requisite time period, you have a surgery, or you are a caregiver, the
23 sole caregiver of a vulnerable person.

24 Now I'm not -- that's not every single reason that I can come
25 up with, but those are, I would say the 99.9 percent are the reasons that

1 are actually excusable to get out of jury duty. Okay. So with that in
2 mind, is there anyone here who has an extraordinary reason why he or
3 she cannot serve as a juror in this case at this time?

4 Okay. Juror number one, please. This is Brandon Pettie,
5 006. Whenever you're ready, Mr. Pettie, once you have the mic?

6 PROSPECTIVE JUROR 006: I'm going out of town in two
7 days.

8 THE COURT: In two --

9 PROSPECTIVE JUROR 006: Yes.

10 THE COURT: Sorry, I didn't mean to cut you off. So on --

11 PROSPECTIVE JUROR 006: I'm going out -- I'm going out of
12 town in two days.

13 THE COURT: All right. And where are you going, and how
14 long are you staying?

15 PROSPECTIVE JUROR 006: I'm going to Denver from
16 Thursday to Sunday.

17 THE COURT: Thursday through Sunday. Okay. And is this
18 work related or pleasure?

19 PROSPECTIVE JUROR 006: Pleasure.

20 THE COURT: Okay. And then do you have like anything on
21 your phone that you could show me like plane tickets, hotel?

22 PROSPECTIVE JUROR 006: Yes.

23 THE COURT: All right. Would you mind firing that up and
24 just showing my Marshal, when you're ready?

25 PROSPECTIVE JUROR 006: Okay.

1 THE COURT: Thank you.
2 Anybody else? All right. While he's doing that, Chris, can
3 you get me the mic, please?
4 THE MARSHAL: Just raise your hands again, please.
5 Thanks.
6 THE COURT: All right. Name and badge number?
7 PROSPECTIVE JUROR 223: Estacion, It's 848.
8 THE CLERK: 223.
9 THE COURT: Wait.
10 PROSPECTIVE JUROR 223: Oh, yeah.
11 THE COURT: Estacion, yeah. 223. Okay. Go ahead, sir?
12 PROSPECTIVE JUROR 223: I have a special needs child I pick
13 up at school at 3 o'clock, but that's it.
14 THE COURT: All right. And is there anyone in your home
15 could pick your child up?
16 PROSPECTIVE JUROR 223: No. Not at the moment.
17 THE COURT: And do you work?
18 PROSPECTIVE JUROR 223: Yes.
19 THE COURT: What's your work schedule?
20 PROSPECTIVE JUROR 223: Actually, it's right now.
21 THE COURT: Right now?
22 PROSPECTIVE JUROR 223: It's 6:00 to 3:00?
23 THE COURT: 6:00 to 3:00.
24 PROSPECTIVE JUROR 223: Yeah. I pick him up at, after
25 school, after I leave work.

1 THE COURT: And then are you married, or do you have a
2 significant other, divorce?

3 PROSPECTIVE JUROR 223: I'm married.

4 THE COURT: Married. And when does your wife work?

5 PROSPECTIVE JUROR 223: She's 8:30 to 5:30.

6 THE COURT: Okay. And there there's no other family
7 members in town that could help?

8 PROSPECTIVE JUROR 223: No. Not at the moment.

9 THE COURT: All right. Where was my next hand? Yes,
10 ma'am, name and badge number?

11 PROSPECTIVE JUROR 316: Sharie Heier, 316.

12 THE COURT: Yes, ma'am?

13 PROSPECTIVE JUROR 316: I am getting my master's degree
14 right now. It's not full-time, but it does take me like every day, all day to
15 work through it, except for like, when I'm working at work, like my job.

16 THE COURT: Okay. What are your work hours?

17 PROSPECTIVE JUROR 316: So I just work on the weekends
18 so that doesn't have anything to do with it, it's just that I'm working on
19 school through the entire week.

20 THE COURT: Okay. So you work weekends, and then is it
21 online or do you actually go to the school?

22 PROSPECTIVE JUROR 316: It's online.

23 THE COURT: All right. Okay. Thank you.

24 Let's go to Jenny Cacchione, badge number 388. Yes,
25 ma'am?

1 PROSPECTIVE JUROR 316: I'm moving to Kentucky next
2 Thursday.

3 THE COURT: All right. And are you driving? Flying?

4 PROSPECTIVE JUROR 316: Flying.

5 THE COURT: Flying. Okay. And do you have that on your
6 phone?

7 PROSPECTIVE JUROR 316: Yes.

8 THE COURT: All right. Can you show my marshal, please?
9 And then to your left, Chris.

10 PROSPECTIVE JUROR 306: My name is Iris Romero and I do
11 have full custody of an eight month old daughter.

12 THE COURT: Ms. Romero is badge number 305. Okay.
13 And do you work?

14 PROSPECTIVE JUROR 305: Yes.

15 THE COURT: And who watches her while you're at work?

16 PROSPECTIVE JUROR 305: A babysitter.

17 THE COURT: All right. And what are your work hours?

18 PROSPECTIVE JUROR 305: 8:00 to 4:30.

19 THE COURT: Okay. Any other hands that I missed?

20 PROSPECTIVE JUROR 314: Samantha Catelo, 475.

21 THE COURT: Yes, ma'am. Badge number 314. Go ahead.

22 PROSPECTIVE JUROR 314: So I just started a new job. I'm a
23 single mother and my reliable sitter just had COVID. So I'm kind of
24 going through a lot this week and not really too sure or determined
25 about how I'm going to pick up my daughter after school.

1 THE COURT: So the babysitter who had COVID, is she out of
2 -- he or she out of quarantine, now?

3 PROSPECTIVE JUROR 314: No. She's still in quarantine.

4 THE COURT: She's still in quarantine. Single mom. And
5 you said eight, you said eight-month-old baby?

6 PROSPECTIVE JUROR 314: No, no, no. She's -- she's in third
7 grade.

8 THE COURT: Oh, where did I get that?

9 PROSPECTIVE JUROR 314: I think that's the last --

10 THE COURT: Oh --

11 PROSPECTIVE JUROR 314: -- girl you talked --

12 THE COURT: Yeah. You're right.

13 All right. Is there anyone in your family that helps you with
14 pick when you run into issues?

15 PROSPECTIVE JUROR 314: Right now, my new job, they're
16 kind of working with me, so I can pick her up and then work from home
17 until my babysitter is no longer quarantined.

18 THE COURT: Got you. Okay. All right. Any other hands? I
19 think I missed one to your right, Chris, and then one up front.

20 THE MARSHAL: Over here?

21 THE COURT: Over here first row.

22 THE MARSHAL: Okay.

23 PROSPECTIVE JUROR 319: My name is Lynne Pfundstein,
24 number 737 [sic]. I have -- I'm sole caregiver of my 90-year-old mother.
25 She is healthy, but from day-to-day she's very -- she's a lot of work.

1 THE COURT: Okay. And is it just the two of you in the
2 home?

3 PROSPECTIVE JUROR 319: No. My husband, but he works
4 during the day.

5 THE COURT: And you don't work -- I mean, I know you take
6 care of her.

7 PROSPECTIVE JUROR 319: I don't --

8 THE COURT: -- but do you work --

9 PROSPECTIVE JUROR 319: I'm with my mom. Yeah.

10 THE COURT: All right.

11 PROSPECTIVE JUROR 319: And she's generally not -- you
12 know, she's generally not a problem.

13 THE COURT: Yes.

14 PROSPECTIVE JUROR 319: But you know, doctor's
15 appointment, she comes up with, and so --

16 THE COURT: Anything in the next five to six days?

17 PROSPECTIVE JUROR 319: I checked. She only has one
18 appointment, which I think she'll be able to change, but it makes her very
19 anxious when she has to do that, but we can get through it for the most
20 part.

21 THE COURT: Okay. Thank you for letting me know. Okay.
22 And then up front here?

23 PROSPECTIVE JUROR 185: Yeah. Wendy Dunbar, 538 [sic].
24 I have a 72 year old immune-compromised husband. Just one second,
25 ma'am, 185. So your juror ID numbers are one number, but your badge

1 number is another. So just make sure you guys are putting on the badge
2 number. So that's 185.

3 Ms. Dunbar, go ahead.

4 PROSPECTIVE JUROR 185: Yeah. I have a 72 year old
5 immune-compromised husband just got done with COVID a couple
6 weeks ago on oxygen. He's got leukemia, COPD, and it's just myself and
7 him.

8 THE COURT: And do you work, or you just take care of him?

9 PROSPECTIVE JUROR 185: No, I just take care of him.

10 THE COURT: Okay. Any other hands that I missed?

11 PROSPECTIVE JUROR 247: Twila Smith, badge 247. I just
12 help my daughter babysit, she has no one else, for two grandkids. And
13 she works at Amazon, the only problem with the Amazon is their hours
14 come at night, so she never knows when she's going to work until the
15 night before.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR 247: That's my only inconvenience.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR 247: All right.

20 THE COURT: Thank you. Thank you.

21 PROSPECTIVE JUROR 247: Thank you.

22 THE COURT: Any other hands that I missed? Yeah, we just
23 have one more, Your Honor. Okay.

24 PROSPECTIVE JUROR 344: My name's Shia Lam?

25 THE COURT: Yes, ma'am. What's your badge number?

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PROSPECTIVE JUROR 344: 0344.

THE COURT: Yes.

PROSPECTIVE JUROR 344: My question's -- sorry, embarrassed. I'm not really understand the, you know, a lot of thing.

THE COURT: Okay. What is your native language?

PROSPECTIVE JUROR 344: Chinese.

THE COURT: And how long have you been in the United States?

PROSPECTIVE JUROR 344: About 20 years.

THE COURT: Excuse me?

PROSPECTIVE JUROR 344: More than 20 years.

THE COURT: All right. And what do you do for work?

PROSPECTIVE JUROR 344: Right now I work in the nurse home.

THE COURT: A nursing home?

PROSPECTIVE JUROR 344: Yeah, in the kitchen.

THE COURT: Nursing home, in the kitchen.

PROSPECTIVE JUROR 344: And, and what other jobs have you had here? All in the kitchen. So --

THE COURT: Oh, all in the kitchen?

PROSPECTIVE JUROR 344: Yeah.

THE COURT: Okay, thank you. Appreciate that.

Any other hands that I missed? All right. So this happens every single trial, so I'm trying to get in front of it. What will happen is sometime tomorrow when we get a jury, someone will be selected and

1 then they will come up with four reasons of why they can't serve on the
2 jury, and we've already selected the juror. So I'm trying to get in front of
3 that bus.

4 If you do not tell me now that there is an issue, you are
5 forever waiving your right to do so. Okay. Because I can't continue
6 getting in that situation. So if there's something you think you need to
7 tell me or something you need to know, I need to know now.

8 Okay. Right here, Chris.

9 THE MARSHAL: I have one up there. Right? Let, just get
10 that real quick.

11 THE COURT: Thank you,

12 PROSPECTIVE JUROR 133: Avery Callis.

13 THE COURT: Yes.

14 PROSPECTIVE JUROR 133: Yeah. I work for the Nevada
15 Governor's Office of Economic Development. We have a trade mission
16 to the United Iraq Emirates, visiting Dubai and Abu Dhabi. I leave here
17 on March 1st. However, we're doing extensive trade mission planning
18 right now, including logistics for the hotels, transportation.

19 We're also going to Turkey at the end of that mission. I'll be
20 out of the country for 16 days. So I'm doing like a lot of work right now
21 for planning the mission with 15 different Nevada export companies, and
22 also people from my office.

23 THE COURT: How many people in your office would you say
24 are currently working on that project with you?

25 PROSPECTIVE JUROR 133: There's only three of us. It's a

1 downsized from five people. We used to have a few years ago that
2 planned smaller missions. So this is our biggest mission ever. Yeah,
3 there's only three of us though.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR 133: But don't let it be an excuse. I
6 just -- in case this goes very long.

7 THE COURT: Yeah.

8 PROSPECTIVE JUROR 133: Like March 1st.

9 THE COURT: No. I appreciate you telling me.

10 PROSPECTIVE JUROR 133: Thank you.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 183: Paul Dudzinski, badge number
13 183.

14 THE COURT: Yes, sir.

15 PROSPECTIVE JUROR 183: I have business travel from
16 Friday afternoon through Sunday, so --

17 THE COURT: And what time on Friday afternoon?

18 PROSPECTIVE JUROR 183: 4:55 departure.

19 THE COURT: And would you be able to show my marshal --
20 is that what you're showing him right now?

21 PROSPECTIVE JUROR 183: Yeah.

22 THE COURT: Okay. Appreciate it. Thank you.

23 And then let's go back please, to Ms. Cdebaca, 106, if you
24 could raise your hand, ma'am so my marshal can get to you?

25 PROSPECTIVE JUROR 106: I don't think this is really a

1 problem.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR 106: But I had a leak in my ceiling and
4 the contractors are supposed call me to tell me when they can come to
5 fix it.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR 106: But I'm thinking I can work with
8 them to choose the day.

9 THE COURT: Okay. All right. Thank you.

10 Any other hands I missed? All right. Attorneys in the back
11 please?

12 [Sidebar at 11:52 a.m., ending at 11:54 a.m., not transcribed]

13 THE COURT: All right, guys. If you hear your name, please
14 stand. Badge number 006, Brandon Pettie. Badge number 183, Paul
15 Dudzinski. Badge number 185, Wendy Dunbar. Badge number 223,
16 Cenonito Estacion. Badge number 298, Fernando Domantay. Badge
17 number 314, Samantha Catelo. Badge number 324, Azul Sage. Badge
18 number 344, Shia Lam. Badge number 388, Jenny Cacchione.

19 All right. Thank you very much, you are excused, please go
20 ahead and exit.

21 All right. Moving on, are any of you acquainted with me, or
22 any of the members of my staff? Showing no response.

23 Do any of you know one another? Showing no response.

24 Are any of you acquainted with the Defendant, Mr. Young, or
25 his attorney, Mr. Margolis? Showing no response.

1 Are any of you acquainted with District Attorney Steve
2 Wolfson, or any other person in the District Attorney's office, including
3 these two individuals, Mr. Brooks, or Ms. Sullivan. All right?

4 PROSPECTIVE JUROR 263: I don't know if this is relevant, or
5 not.

6 THE COURT: Can I have your name and badge number,
7 please?

8 PROSPECTIVE JUROR 263: Oh, I'm Tamara Desmarais, and
9 my badge number is 263.

10 THE COURT: Yes, ma'am.

11 PROSPECTIVE JUROR 263: I think you were the prosecutor
12 on -- the last time I was in jury duty. But --

13 THE COURT: What was the name of the case?

14 PROSPECTIVE JUROR 263: I got dismissed, so I wasn't --

15 THE COURT: Oh, you got dismissed?

16 PROSPECTIVE JUROR 263: I was like the second juror, and
17 then I got peremptory -- you peremptory challenged me, I'm pretty sure
18 it was you.

19 THE COURT: I'm sure I had a valid reason.

20 PROSPECTIVE JUROR 263: I don't have any resentment or
21 anything, but I just wanted -- I didn't know if I need to bring that up or
22 not, so --

23 THE COURT: I appreciate it. Thank you. Anyone else?
24 Okay.

25 THE MARSHAL: Your Honor?

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THE COURT: Yeah.

PROSPECTIVE JUROR 090: I don't know if it's like relevant, but I know past judges.

THE COURT: May I have your name and badge number?

PROSPECTIVE JUROR 090: Chelsea Crossley, 00 -- 0090.

THE COURT: No, just attorneys.

PROSPECTIVE JUROR 090: Okay.

THE COURT: Yeah. Thank you, though, for asking. Are any of you acquainted with any of the witnesses that were named by the State? Showing no response.

I know you received very little information about the case, but with the little information that you received, is there anyone who thinks that they may have heard, or seen anything about this case, before walking in here today? Okay. All right. Let's go back to Ms. Crossley, and I apologize Ms. Crossley, give me your badge number again?

PROSPECTIVE JUROR 090: 090.

THE COURT: Oh, Crossley?

PROSPECTIVE JUROR 090: Yeah.

THE COURT: What -- tell, just where do you think you heard or saw it from? Are you talking about word of mouth, newspaper?

PROSPECTIVE JUROR 090: Word of mouth. I dad used to work at Bally's and Paris.

THE COURT: Bally's and Paris?

PROSPECTIVE JUROR 090: Uh-huh.

1 THE COURT: Okay. And are you sure that you heard about
2 it, or you just think?

3 PROSPECTIVE JUROR 090: I think.

4 THE COURT: Okay. All right.

5 THE MARSHAL: Does somebody still have their hand up?

6 PROSPECTIVE JUROR 109: I'm Mireya Magana, badge
7 number 0109.

8 THE COURT: Yes, ma'am.

9 PROSPECTIVE JUROR 109: I'm employed at the Paris Hotel,
10 and I believe I have heard of this case.

11 THE COURT: Okay. And when you say you have heard
12 about it, like you just heard that something happened? Do you know
13 any, like the specifics, or anything like that --

14 PROSPECTIVE JUROR 109: Well --

15 THE COURT: -- without telling me what, just yes or no

16 PROSPECTIVE JUROR 109: Yes.

17 THE COURT: All right. Thank you. Anyone else?

18 PROSPECTIVE JUROR 109: All right. Mr. Brooks.

19 THE COURT: Ms. Sullivan, is there anyone in this case, any
20 witness that we need the use of a Spanish interpreter --

21 MR. BROOKS: No, Judge.

22 PROSPECTIVE JUROR 109: -- or any type of interpreter?

23 MR. BROOKS: No, Judge.

24 THE COURT: Okay. All right. Ladies and gentlemen, under
25 our system certain principals apply in every criminal trial, there are

1 three: 1) the charging document filed in this case is merely an
2 accusation, and is not evidence, in way of guilt; 2) the Defendant,
3 Mr. Young is presumed innocent; and 3) the State must prove that the
4 Defendant is guilty beyond a reasonable doubt.

5 First of all, is there anyone here who doesn't understand
6 those three principles, and I'm happy to define them further? No
7 response.

8 Is there anyone who disagrees with any of those three
9 principles? Anyone who disagrees with any of those fundamental
10 principles, any of the three? Showing now response.

11 Is there anyone who would have trouble following the
12 instructions on the law that I give you, regardless of whether you think
13 the law is good or bad? So let me give you kind of a real world example.

14 So before marijuana became legalized there were cases that
15 would come into the Eighth Judicial District Court, where someone was
16 charged with possession of large amounts of marijuana, and some jurors
17 would have issues, because they did not believe it should be illegal to
18 possess marijuana, therefore they refused to follow the law.

19 When you take an oath, as a juror, part of that oath is, you're
20 agreeing to follow the law. So this has nothing to do with marijuana, but
21 it's just an example, right? Like will you follow the laws, even if you
22 disagree with them? So I go back to my original question, which is, is
23 there anyone here who would have trouble following the laws if they did
24 not agree with the laws?

25 Okay. If we could go into the back row, please. All right.

1 Name and badge number, please?

2 PROSPECTIVE JUROR 361: Karen Grow, badge number 361.

3 THE COURT: Yes, ma'am.

4 PROSPECTIVE JUROR 361: Well, I don't believe in the death
5 penalty.

6 THE COURT: Okay. And the death penalty is a valid
7 sentence in the State of Nevada, but only if someone is charged with first
8 degree murder, with use of a deadly weapon, which we don't have here.
9 So since that's not on the table here, would that be an issue then?

10 PROSPECTIVE JUROR 361: No.

11 THE COURT: Okay. Thank you for bringing that up, I
12 appreciate it. Any other hands that I missed? Showing no response.

13 All right. Officer Kennis, if we could have the papers handed
14 out to my first 28, please. And while Officer Kennis is passing those
15 sheets out we will have our seats filled, please.

16 THE CLERK: So in seat number 1, will be badge number 237,
17 Justin Jenetto. In seat number 20, it will be badge number 245, Kevin
18 Jeung. And seat number 21 will be badge number 247, Twyla Smith.
19 And in seat number 27, will be badge number 263, Tamara Desmarais.

20 THE COURT: All right, you guys. So my marshal is handing
21 out a piece of paper to the first 28 of you. So I want to talk a little about
22 this piece of paper. So we're going to go through these questions -- and
23 Chris, may I have one copy, please?

24 THE MARSHAL: Yes.

25 THE COURT: And then make sure that the attorneys have a

1 call as well, please. Thank you.

2 So what people generally want to do, is they want to do this.
3 Number 1, 12 years. Number 2, high school. Number 3, you can't do
4 that. So you don't have to read the full question, you don't have to say:
5 How long have you lived in Clark County? I've lived in Clark County ten
6 years. All I need you to do is incorporate the question somehow in the
7 answer, so I know what you're talking about.

8 So if I were doing it, I would say, I've lived in Clark County for
9 20 years, I went to law school, I'm employed as a judge. That's how I
10 would do it, just so I know which question you're at. Okay?

11 And then if you go to number 8, please. It says: Is there
12 anything you have heard about the trial, thus far, that makes you feel it
13 would be difficult for you to sit as a juror? This question is not asking
14 you have you heard a anything about the trial, like those two potential
15 jurors said, yeah, they think they heard something. This is saying, have
16 you heard anything thus far that makes you think you wouldn't be able
17 to be fair and impartial, okay?

18 All right. So we will start with the juror in seat number 1,
19 Mister -- is it Jenetto?

20 PROSPECTIVE JUROR 237: It's Jenetto, yes.

21 THE COURT: Jenetto. And that is badge number 237. So,
22 Mr. Jenetto, from the top, whenever you're ready, sir.

23 PROSPECTIVE JUROR 237: Good morning everyone. I've
24 lived in Clark County now for ten years. I graduated high school, and I
25 am currently employed, I'm in the gaming industry. I am married to my

1 beautiful wife, and we do have a child, a daughter who is four years old.
2 We've never been convicted of a crime, thankfully. And no one close to
3 us has been accused of a crime.

4 There has been nothing that I've heard about this case,
5 currently, and yes, I can base my verdict solely on evidence, and I will
6 definitely be fair and impartial to both sides.

7 THE COURT: And you know what, I told you, I left one of
8 these out. Have you ever been a juror before?

9 PROSPECTIVE JUROR 237: I have not been selected, no. I've
10 been through the process, but not been selected.

11 THE COURT: Okay. Sounds good, thank you.

12 PROSPECTIVE JUROR 237: My pleasure.

13 THE COURT: All right. And this is Ms. Shanks, badge
14 number 007.

15 PROSPECTIVE JUROR 007: I lived in Clark County for six
16 years. I have an associate's degree, currently in school for my bachelor's
17 degree in psychology. I am a State employee. I am not married. I have
18 two teenagers, 16 and 15. And I have -- I am not close to anyone --
19 anyone that's close to -- anyone close to being a victim of a crime.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR 007: And I have -- and I have no one --
22 I do not know anyone who's been accused of a crime. And I have not
23 heard anything of this trial court or anything. And I solely can base my
24 input solely on the evidence that's being presented to me, and I can be
25 fair on both sides.

1 THE COURT: And whenever someone been in Las Vegas for
2 longer than ten years, I need to ask where they were before, so I can
3 establish that 10-year period. So where did you move from?

4 PROSPECTIVE JUROR 007: Philadelphia, Pennsylvania.

5 THE COURT: Pennsylvania. And how long were you there
6 for?

7 PROSPECTIVE JUROR 007: I was there for 16 years.

8 THE COURT: Okay. All right. Thank you, ma'am, appreciate
9 it.

10 And Mister, is it Paoni?

11 PROSPECTIVE JUROR 009: Paoni.

12 THE COURT: Okay, thank you. Whenever you're ready, sir?

13 PROSPECTIVE JUROR 009: I've lived in Clark County for 38
14 years. I am a high school graduate. I am self-employed, I have a
15 consulting company. I am married to my husband. We have two
16 children who are adopted. I have not anyone close to me have -- a victim
17 of a crime. Going through the foster care system, when I adopted my
18 children, both of their parents, we had to deal with them, with their
19 crime.

20 And then, I have not heard anything about this case. I can -- I
21 can base my verdict on the evidence, and I can be fair and impartial on
22 both sides.

23 THE COURT: Okay. Thank you.

24 PROSPECTIVE JUROR 013: Kristi, badge number 013. I've
25 lived in Clark County 20 years. I graduated with my bachelor's degree in

1 medical imaging. I'm a CTT tech in a hospital I'm not married, no
2 children. No victim of crime. No. My brother was accused of petty theft,
3 and then I don't think I've heard anything about the trial that makes me
4 feel like I wouldn't be able to --

5 THE COURT: Let me -- sorry. Let me ask you a few
6 questions about your brother. So when was that?

7 PROSPECTIVE JUROR 013: Probably like ten years ago.

8 THE COURT: Okay. And was that -- where was that?

9 PROSPECTIVE JUROR 013: Here in Vegas.

10 THE COURT: All right. And how do you feel that situation
11 was handled either by the police, or the court system, do you think it was
12 fair, unfair, what would you say about it?

13 PROSPECTIVE JUROR 013: I'm not sure about the details of
14 what happened. I just know that somebody sent the bail bond person
15 after him, so that was fun.

16 THE COURT: Sent up -- oh --

17 PROSPECTIVE JUROR 013: Yeah. They tried to knock down
18 our front door.

19 THE COURT: Oh, dear. Okay. Okay. Sorry to interrupt you.

20 PROSPECTIVE JUROR 013: No worries. I can base my
21 verdict on evidence, and I can be fair and impartial.

22 THE COURT: Have you ever been a juror before?

23 PROSPECTIVE JUROR 013: This is my first time.

24 THE COURT: Okay. Ms. Reed, whenever you're ready?

25 PROSPECTIVE JUROR 025: Okay. I'm ready.

1 THE COURT: I've been in Nevada for 30 years. I have a
2 bachelor's degree in management. I'm employed in mid-management.
3 And my husband work for school, as a school counselor. And I don't
4 have any kids. And I don't have anybody close to me that have been
5 convicted of a crime. I don't have anybody being accused. I didn't hear
6 anything about this case. And I can based your verdict solely on the --
7 on the evidence, and I can be fair in the trial.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 056: So I've lived in Vegas --

10 THE COURT: Oh, sorry. Is it Ms. Baird?

11 PROSPECTIVE JUROR 056: It is.

12 THE COURT: Badge number 056, go ahead.

13 PROSPECTIVE JUROR 056: So I've lived in Vegas for three
14 and a half years. I'm originally from -- just outside Chicago, Illinois.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 056: I have some college, but no
17 degree. I'm currently self-employed as dog walker, while I'm learning to
18 day trade. I am not married. I don't have children. As far as anyone
19 close to me being a victim of a crime, so where I grew up, my friend
20 group was predominantly people of color, and so I did witness a lot of
21 things that maybe have stuck with me, if you will.

22 An example of that would be, I was driving in a car with a
23 friend of mine, who was a male, an African American, and police
24 officer -- officer saw us get in the car together, and he pulled him over,
25 and the next thing I knew I was out of the car, and they had canine units,

1 and all kinds of stuff. There was no reason for it, there was no drugs, no
2 anything, no speeding. And I've unfortunately witnessed profiling like
3 that in the past.

4 THE COURT: What was the reason they gave?

5 PROSPECTIVE JUROR 056: They said it was speeding. But
6 they didn't ultimately give him a warning or a ticket.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR 056: Yes.

9 THE COURT: Because of those, you know, those interactions,
10 there's -- I guess there's many different ways that you can view things.
11 So do you view it as, listen, officers are like any other occupation, there's
12 good apples and bad apples, or do you think that it completely colored
13 your -- the way you look at law enforcement, or the criminal justice
14 system?

15 PROSPECTIVE JUROR 056: Because of how much of this I've
16 experienced, I think it has biased me, yes.

17 THE COURT: Okay. And do you think that impairs you to be
18 a fair and impartial juror?

19 PROSPECTIVE JUROR 056: I would like for it to not, but if I'm
20 being honest, yeah.

21 THE COURT: Okay. And can you tell me in what way?

22 PROSPECTIVE JUROR 056: I find it hard -- like it -- I don't
23 really want to like get into too, too, much but as far as like racial
24 injustice, and stuff like that really -- really hits home with me.

25 THE COURT: Let me ask this way. So usually, I would say in

1 probably all cases in which someone is charged with a crime, you'll hear
2 from police officers, or individuals who investigated that crime.

3 PROSPECTIVE JUROR 056: Uh-huh.

4 THE COURT: When a police officer comes in and, you know,
5 raises their right hand like everyone else, swears to tell the truth, nothing
6 but the truth, are they already starting behind the line with you, simply
7 because they're a police officer?

8 PROSPECTIVE JUROR 056: Yes.

9 THE COURT: Okay. And there's no wrong answers, right, it's
10 just --

11 PROSPECTIVE JUROR 056: And I feel kind of shameful
12 saying that.

13 THE COURT: No. You shouldn't feel shameful, and quite
14 honestly, both sides deserve the honesty, right, because they should be
15 able to -- to be able to fairly figure out whether or not you can be fair, so
16 I appreciate your honesty

17 PROSPECTIVE JUROR 056: Right.

18 THE COURT: -- because I know it's not always easy.

19 PROSPECTIVE JUROR 056: Yeah.

20 THE COURT: All right. So have you known anyone that's
21 been a victim?

22 PROSPECTIVE JUROR 056: As far as like of a crime that's
23 been reported, no.

24 THE COURT: All right. And were there friends that you had,
25 that were victims that were not recorded, above and beyond the racial

1 treatment that you're talking about?

2 PROSPECTIVE JUROR 056: Not that I can think of at this
3 moment, no.

4 THE COURT: Okay. What about accused?

5 PROSPECTIVE JUROR 056: I have friends who have been
6 accused and convicted of crimes, yes.

7 THE COURT: And would you say that that also lends to your
8 same thought process?

9 PROSPECTIVE JUROR 056: Yes.

10 THE COURT: In each of those cases -- in any of those cases
11 do you feel like the system was fair, or would you say in each of them
12 you felt the system was not fair?

13 PROSPECTIVE JUROR 056: There's multiple, and I don't feel
14 in every single one that it was unfair, but there is one that I feel like the
15 system failed them.

16 THE COURT: Can you tell me a little bit about that?

17 PROSPECTIVE JUROR 056: He was accused of battery,
18 assault and robbery, and ultimately let go after he had served time.

19 THE COURT: But what did you feel like the system failed;
20 how did the system fail?

21 PROSPECTIVE JUROR 056: I feel like his case was presented
22 in a way that was unfair.

23 THE COURT: All right. By the police or the prosecutors?

24 PROSPECTIVE JUROR 056: The police.

25 THE COURT: Thank you. Have you ever been a juror before?

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PROSPECTIVE JUROR 056: No.

THE COURT: All right. Go -- and then go down the page.

PROSPECTIVE JUROR 056: Is there any -- so number 8?

THE COURT: Yes.

PROSPECTIVE JUROR 056: Okay. No, there's nothing that I've heard about this, that would make it difficult outright, other than what I've just disclosed.

THE COURT: Yes, ma'am.

PROSPECTIVE JUROR 056: And then can I based my verdict solely on the evidence presented? Yes. And can I be fair and impartial to both sides, yes.

THE COURT: All right. So let's talk a little bit about those last two.

PROSPECTIVE JUROR 056: Uh-huh. I want to be. Uh-huh.

THE COURT: Okay. So you want to be -- and you think you can be or --

PROSPECTIVE JUROR 056: I think I can be.

THE COURT: You think you can be. And how does that reconcile with the conversation earlier that we were having, where you were saying, I think it would prevent me from being fair, and police officers start from behind the line.

PROSPECTIVE JUROR 056: Because I realize my bias with police officers, and I also -- I do believe in what's right, though; does that make sense?

THE COURT: Yeah. I just -- so part of my job as being a

1 judge, is I just want to make sure everybody is on equal footing, right?

2 PROSPECTIVE JUROR 056: Absolutely. I'm just trying to be
3 as honest as possible.

4 THE COURT: Well, great, yeah. Okay. So now that you've
5 had some time to think about it, you're thinking, I believe that I can be
6 fair because I believe in doing what's right, is that -- would that be a fair
7 recitation of your thoughts?

8 PROSPECTIVE JUROR 056: Yes.

9 THE COURT: Okay. All right. Thank you.

10 PROSPECTIVE JUROR 056: Okay.

11 THE COURT: Let's move it -- is it Moon?

12 PROSPECTIVE JUROR 078: Yes.

13 THE COURT: Badge number 078.

14 PROSPECTIVE JUROR 078: So I've lived in Clark County for
15 four years, before that I was in Texas.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR 078: I am almost completed with my
18 associate's degree. I'm currently employed as a government security
19 contractor. I am married. He's also in the same line of work. I do have
20 an adult child. He also lives in Texas, he's in -- working construction.
21 Have I ever had a relative or someone close to me a victim of a crime,
22 no.

23 Anyone close to me ever accused of crime, no. Is there any --
24 I have not heard anything that I would consider difficult, to sit on this
25 jury. And I can solely base it on the evidence, and I can be fair and

1 impartial to both sides.

2 THE COURT: And have you been a juror before, Ms. Moon?

3 PROSPECTIVE JUROR 078: No, ma'am.

4 THE COURT: All right. And, Mr. Taylor, badge number 084.

5 Whenever you're ready, from the top, please?

6 PROSPECTIVE JUROR 084: I've lived in Clark County about
7 four years now. I have some college.

8 THE COURT: And where were you before Vegas?

9 PROSPECTIVE JUROR 084: I was in Colorado for five years.

10 THE COURT: All right. And then where, before Colorado.

11 PROSPECTIVE JUROR 084: Wyoming, and for year in
12 California.

13 THE COURT: Oh, wow, so a lot of moving?

14 PROSPECTIVE JUROR 084: Yeah.

15 THE COURT: Is that -- why is that?

16 PROSPECTIVE JUROR 084: Because I'd like to travel and do
17 new things.

18 THE COURT: Okay, great. Go head?

19 PROSPECTIVE JUROR 084: I am employed as an inventory
20 manager, and compliance officer for a dispensary. I am not married,
21 have no children, nobody -- I've never been the victim of a crime, nobody
22 I know has been accused of a crime. Nothing I've heard would make it
23 difficult to sit as a juror. I can base my verdict solely on the evidence,
24 and I can be fair and impartial to both sides. I'm just -- I think the State
25 has a higher burden of proof in a criminal trial.

1 THE COURT: Yeah, okay. So that's a great point. So let's
2 talk about that for a second, just so we can all be on the same page. So
3 it doesn't matter what courtroom you're in, in the United States, in the
4 criminal realm. So if you've been a juror in a civil case it's a little bit
5 different, but in criminal court the State has to prove that the Defendant
6 is guilty of each element of the crime, beyond a reasonable doubt.

7 And so beyond a reasonable doubt is kind of a nebulous
8 saying, right, but it's actually defined by law, and you will get the
9 definition of what "beyond a reasonable doubt" means if you're selected
10 as a juror. But what the law says is, it doesn't matter if you're charged
11 with petty larceny, or murder, it's always the same burden. And so you
12 can't hold the State to less than that burden, but you can't hold the State
13 to higher than that burden; the burden is the burden.

14 Do you feel okay with that, Mr. Taylor?

15 PROSPECTIVE JUROR 084: Yeah. I feel with that, but I guess
16 it kind of ties into exactly what you explained.

17 THE COURT: Okay. Yeah. I just wanted to -- I didn't know if
18 you were saying you recognize it's a high burden, or you were saying I
19 would hold them to a higher burden?

20 PROSPECTIVE JUROR 084: No. I just recognize it as a high
21 burden.

22 THE COURT: Okay. Perfect, thank you. And have you been
23 a juror before?

24 PROSPECTIVE JUROR 084: I have not.

25 THE COURT: All right. Ms. Lee, badge number 088?

1 PROSPECTIVE JUROR 084: I have lived in Clark County for a
2 little over three and a half years. Before that I was in Los Angeles,
3 California, for all my life.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR 084: I graduate -- or, I'm sorry. I
6 have some college. I am currently a realtor. I am married. My husband
7 is in social media and branding.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR 084: I -- we have two children, our
10 daughter is eight, and our son is four. Crimes previously? I was actually
11 in an abusive relationship and had a restraining order placed on my ex.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 084: That was 20 plus years ago.

14 THE COURT: And was -- the restraining order was issued for,
15 was there a criminal case for battery domestic violence, or anything like
16 that?

17 PROSPECTIVE JUROR 084: No, no.

18 THE COURT: Okay. Was there battery domestic violence not
19 reported?

20 PROSPECTIVE JUROR 084: I mean, everything that took
21 place was reported, and honestly it's kind of a blur, because I was so
22 young at the time.

23 THE COURT: Okay. Sounds go. Thank you.

24 PROSPECTIVE JUROR 084: Let's see. I haven't heard
25 anything about the trial that would make it difficult to sit as a juror. I do

1 feel like I can base my verdict solely on evidence, and I definitely can be
2 fair and impartial as best as I can, and I've never been on a jury before.

3 THE COURT: Ms. Crossley, badge number 090?

4 PROSPECTIVE JUROR 090: I've been in Clark County for 31
5 years. I am currently in college for healthcare management. I'm
6 employed in the gaming industry. I'm not married, no kids. No one's
7 been a victim of a crime, close to me. I don't know anyone that was
8 accused. I haven't heard anything so far. I can base it on solely
9 evidence, and I can be fair and impartial.

10 THE COURT: Thank you. And juror before?

11 PROSPECTIVE JUROR 090: I've been through the process,
12 but not selected.

13 THE COURT: Thank you.

14 How do you pronounce your last name?

15 PROSPECTIVE JUROR 104: Hentges.

16 THE COURT: Hentges, from the top?

17 PROSPECTIVE JUROR 104: I've been in Vegas for 26 years. I
18 got a bachelor's degree in new work systems security. I am employed as
19 an IT manager. Married, she doesn't work, no kids. I haven't been a
20 victim of a crime. I've never been convicted of anything.

21 THE COURT: Has anyone close to you been either a victim
22 or --

23 PROSPECTIVE JUROR 104: No.

24 THE COURT: -- accused? Okay. Thank you.

25 PROSPECTIVE JUROR 104: I have not heard anything about

1 the case yet, and yes I can base my decision solely on the evidence and
2 be fair and impartial.

3 THE COURT: And have you been a juror before?

4 PROSPECTIVE JUROR 104: No.

5 THE COURT: All right. Thank you.

6 All right. And do I pronounce it Cdebaca, how do I
7 pronounce it.

8 PROSPECTIVE JUROR 106: It's Cdebaca, it's short for
9 [indiscernible].

10 THE COURT: Okay, fine. Thank you.

11 PROSPECTIVE JUROR 106: Okay. This is so much fun for
12 me --

13 THE COURT: Oh, great.

14 PROSPECTIVE JUROR 106: -- but I'll try to be clear.

15 THE COURT: I don't hear that a lot.

16 PROSPECTIVE JUROR 106: Okay. So I've lived in Clark
17 County since 2011, up in [indiscernible] Harris. I attended college in
18 Georgia State with --

19 THE COURT: Would you hold it just a little closer --

20 PROSPECTIVE JUROR 106: Sure.

21 THE COURT: Yes. There you go.

22 PROSPECTIVE JUROR 106: Attended college in Georgia,
23 received a degree in physical therapy. I retired from caregiving. My wife
24 passed from cancer, no kids. Let's see, I've never been convicted of a
25 crime, and no one else that I know has ever been convicted of a crime, or

1 they weren't -- they weren't caught.

2 THE COURT: Or have you ever been a victim, or has anyone
3 close to you ever been a victim?

4 PROSPECTIVE JUROR 106: My mother was a victim of
5 battery.

6 THE COURT: Her mother was a victim of what?

7 PROSPECTIVE JUROR 106: Abuse.

8 THE COURT: Abuse?

9 PROSPECTIVE JUROR 106: Yes.

10 THE COURT: Was it ever reported?

11 PROSPECTIVE JUROR 106: No.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 106: But she's strong and she's okay.
14 Okay. What else? I don't know anything about this crime --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 106: -- and I hope that I can be partial
17 -- impartial and fair. And I've never been a juror before.

18 THE COURT: Okay. Never been a juror before, and nothing
19 that you've heard that would prevent you from being fair and impartial?

20 PROSPECTIVE JUROR 106: No.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR 106: Thanks.

23 THE COURT: All right. Let's go up to Ms. Magana, badge
24 number 109, from the top when you are ready please, ma'am?

25 PROSPECTIVE JUROR 109: My name is Mireya. I have lived

1 in Clark County for 22 years. I have a high school graduate degree. I'm
2 currently employed in the housekeeping department, and I am in a
3 significant relationship where he is also in the housekeeping department.
4 We have a daughter that just turned four today. I do not have anyone
5 close to me that has ever been a victim of crime or been accused of
6 crime. The little bit that I have heard about this case would not make it
7 difficult to sit as a juror. I can base my verdict solely on the evidence
8 presented, and I can be fair and impartial. And I have not been a juror in
9 the past.

10 THE COURT: Thank you, Ms. Magana.

11 Mr. --how -- your last name again?

12 PROSPECTIVE JUROR 111: Del Cano.

13 THE COURT: Del Cano, thank you.

14 PROSPECTIVE JUROR 111: Yes.

15 THE COURT: 111.

16 PROSPECTIVE JUROR 111: I've lived in Clark County for six
17 years. I lived in Southern California prior to that. I have a high school
18 diploma. I am a -- I sharpen surgical equipment for [indiscernible]. I'm
19 married. My wife works in, I guess, marketing. I don't really know her
20 job as well.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR 111: I don't really pay attention, I'm
23 sorry.

24 THE COURT: Don't tell her.

25 PROSPECTIVE JUROR 111: She knows. I have two children,

1 ten and seven. Her side of the family during the, I guess you could say,
2 the break-ins in Southern California, their family's little shop was all
3 burnt down. Their little shopping centers were down. So pretty much,
4 who knows who did it, and I don't know how the situation went. I didn't
5 want to go and get into it with her family.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR 111: Other than that, I have never
8 been accused or anyone close to me been accused for a crime. I haven't
9 heard anything about this trial. And yes, I can base everything on verdict
10 solely on evidence. And I can be fair and impartial to both sides.

11 THE COURT: Ever been a juror?

12 PROSPECTIVE JUROR: No, I have not.

13 THE COURT: All right. Sounds good.

14 Ms. Callis, badge number 133, when you are ready?

15 PROSPECTIVE JUROR 133: Yes. I have been in Clark County
16 for the last 14 years except for the academic years between 2019 and
17 2021, when I went to Reno for school. Speaking of school, I just
18 graduated spring 2021 with a Bachelor of Arts in ethics, law, politics,
19 philosophy, and international affairs, emphasis in law, diplomacy, and
20 organization. I am employed by the Nevada Governor's Office of
21 Economic Development where I am the International Business
22 Development Specialist and STEP Client Manager.

23 I am not married or in any sort of significant relationship. I
24 have no children. I have never been the victim of a crime, but a friend of
25 mine from college was raped about three years ago. It was reported.

1 The person was not caught or arrested. I feel like there just wasn't
2 enough evidence, in general, to have a strong case on her side. While I
3 do believe her, I know that it is still being investigated by the school,
4 though. That is the last I have heard about it. And then I have never
5 been accused or know anyone who was accused of a crime, except the
6 person who my friend accused, so --

7 THE COURT: Sure.

8 PROSPECTIVE JUROR 133: -- that. And then, I have not
9 heard anything about the trial. I can base my verdict solely on evidence
10 presented through the trial, and I can be fair and impartial to both sides.

11 THE COURT: And have you been a juror before?

12 PROSPECTIVE JUROR 133: No, I have not.

13 THE COURT: All right. Thank you.

14 Mr. ONO, badge number 139?

15 PROSPECTIVE JUROR 139: I have been lived in Clark County
16 for 13 years. I am a high school student , I mean, graduate high school
17 student. I attend college but don't have a degree. I am not employed,
18 not married, don't have children. I have never -- I don't have anyone
19 who has been the victim of a crime, don't have anyone who has been
20 accused of the crime. I never heard about this trial. I can base -- base
21 my verdict solely on the evidence, and I can be fair on both sides.

22 THE COURT: And have you ever been a juror before?

23 PROSPECTIVE JUROR 139: No.

24 THE COURT: All right. Thank you, sir. I appreciate that.

25 Mr. Brown, badge number 155?

1 PROSPECTIVE JUROR 155: Yes. I have lived in Clark County
2 for 19 years. I have a bachelor's degrees in international relations. I am
3 employed as a warehouse manager in a trade show general contractor. I
4 am not married, nor do I have any children. I have never been accused
5 of a crime or been a victim of a crime nor do I know anybody that has
6 been. I have never heard of this case before today, and I believe I can be
7 both fair and impartial. I have never yet served as a jury member.

8 THE COURT: Thank you. I appreciate that.

9 Ms. Whittington, badge number 179?

10 PROSPECTIVE JUROR 179: I have lived in Las Vegas or Clark
11 County since -- 56 years. I did not attend college. I did go to high school.
12 I am not married. I don't have any children. Nobody close to me has
13 ever been a victim of a crime. I have known anybody who has been
14 accused of a crime. I have not heard anything about this trial. Yes, I can
15 be impartial. And I can base my verdict solely on the evidence. And this
16 -- I have never been a juror.

17 THE COURT: Okay. Thank you, Ms. W.

18 Let's go to Mr. Wright, badge number 180, please?

19 PROSPECTIVE JUROR 180: I have lived in Clark County for
20 15 years. I graduated high school. I'm a cook. I'm not married. I don't
21 have children. I was robbed before, but they only took my cell phone,
22 which was over five years old, so I didn't even care enough to report it. I
23 just went and bought a phone the next day.

24 THE COURT: Oh, okay.

25 PROSPECTIVE JUROR 180: No one close to me has ever

1 been accused of a crime. I haven't heard anything about the trial. I can
2 base my verdict solely on the evidence presented. I can be fair and
3 impartial to both sides, and I have never been a juror before.

4 THE COURT: I'm sorry, you said you have never been a juror
5 before?

6 PROSPECTIVE JUROR 180: No.

7 THE COURT: All right. Thank you.

8 Let's go to Mr. Jeung?

9 PROSPECTIVE JUROR 245: Jeung.

10 THE COURT: Jeung.

11 PROSPECTIVE JUROR 245: Yeah.

12 THE COURT: 245. Thank you, sir.

13 PROSPECTIVE JUROR 245: Thank you.

14 THE COURT: Whenever you are ready.

15 PROSPECTIVE JUROR 245: Okay. I have lived in Clark
16 County for five-and-a-half, six years. Before that, I am born and raised in
17 San Francisco. I went to college, got a bachelor's degree in information
18 systems. I am currently employed as a business analyst. I am engaged.
19 My fiancée is the CEO of an ecommerce company. No children. A friend
20 of mine was, I guess he reported a crime of, I think, for assault.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR 245: I don't know too much of the
23 details, but I know that he has a restraining order against her.

24 THE COURT: He has a restraining order?

25 PROSPECTIVE JUROR 245: Yes.

1 THE COURT: And was that here or in California?

2 PROSPECTIVE JUROR 245: This was in San Francisco.

3 THE COURT: Okay. All right. Any strong feelings about that,
4 either way, how it was handled by anybody or just don't really know the
5 details?

6 PROSPECTIVE JUROR 245: Don't know the details. I think it
7 was handled correctly. She's a freak. Myself or I don't know anyone that
8 has been accused of a crime personally. I haven't heard anything about
9 the trial. Yeah, I could base my verdict solely on the evidence. And
10 yeah, I could be fair and impartial.

11 THE COURT: And ever been a juror before?

12 PROSPECTIVE JUROR 245: I have never been a juror.

13 THE COURT: All right.

14 All right. Ms. Smith, badge number 247?

15 PROSPECTIVE JUROR 247: I have lived in Clark County for
16 34-1/2 years. I graduated high school. I am not employed. I am married.
17 My husband does just part-time work for taking photography of CSN
18 sports. I have a daughter. She is 38, and she works at Amazon, as I told
19 you earlier. Have you or anyone close to you been the victim of a crime,
20 this one I answered incorrectly. On the computer I put no. And after I
21 printed it, I realized I had answered it incorrectly. But my daughter did
22 back in 2011. It was domestic violence. He tried to strangle her.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 247: She did call the cops. But
25 unfortunately, she didn't pursue it to go much further.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR 247: And she did put one restraining
3 order on him once. So it was reported, and they got him for a little
4 while. But then she didn't follow through. Have I had anybody close to
5 me that has been a crime -- I have two homeless brothers. One was just,
6 I think, like, a year ago, I don't know a lot of details, but was picked up for
7 trespassing. The other one, a domestic violence. The girlfriend said that
8 the did something to her, but he says he didn't. I don't know the full
9 details on all of that either.

10 THE COURT: Is that here?

11 PROSPECTIVE JUROR 247: Yes.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 247: And then I had a half-brother, it
14 has been a long, long, long time ago that drove away from a crime. He
15 was in a car with a friend and the friend went in and stole something.
16 And my half-brother took off and drove away. And he was in prison for
17 over five years --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR 247: -- for that.

20 THE COURT: Anything about any of those situations with
21 your brothers and then your half-brother where you have strong feelings
22 about law enforcement, the criminal justice system, anything like that?

23 PROSPECTIVE JUROR 247: No.

24 THE COURT: Okay. All right. Go ahead.

25 PROSPECTIVE JUROR 247: And then I have not heard

1 anything about this case. And based on the verdict of evidence and
2 being fern -- fair and impartial, I can on both of those.

3 THE COURT: Okay. And have you been a juror before?

4 PROSPECTIVE JUROR 247: I have been a juror, just through
5 the process.

6 THE COURT: All right. Okay. Thank you.

7 PROSPECTIVE JUROR 188: All right. I'm Chase Cupo. I have
8 lived in Clark County for 25 years. I have an associate's degree in
9 general studies from the College of Southern Nevada and an associate's
10 degree from Utah Valley University in digital cinema. I'm employed at
11 Lowe's. I'm a department manager there. I am not in a significant
12 relationship. I don't have any children. No one I know has been accused
13 of a crime. I haven't either. My mother was raped. They did catch the
14 person and they were convicted. So I think it was handled well by the
15 criminal justice system.

16 THE COURT: When was that, Chase?

17 PROSPECTIVE JUROR 188: That was -- it was before my
18 time. It was --

19 THE COURT: Okay.

20 PROSPECTIVE JUROR 188: Yeah, I don't even know what
21 year off the top of my head.

22 THE COURT: Got it. And was that here?

23 PROSPECTIVE JUROR 188: It was in -- yes, it was here,
24 actually. Yeah.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR 188: I haven't heard anything about
2 the trial that makes me feel like it would be difficult to sit as a juror. I can
3 base my verdict solely on the evidence, and I can be fair and impartial to
4 both sides. And I have not been a juror.

5 THE COURT: Okay. Thank you.

6 All right. Ms. Diaz, badge number 198?

7 PROSPECTIVE JUROR 198: I have lived in Clark County for
8 38 years. I have a bachelor's degree in criminal justice. I am employed.
9 I am the receiving foreman for the facilities department at Caesars. I'm
10 not married, don't have children. I don't know anybody that has been a
11 victim of a crime. I was accused of battery in 2011, and I had to take
12 anger management classes and pay a fine. I don't think it was handled
13 right by the criminal justice system.

14 THE COURT: Tell me about it. Why do you feel that way?

15 PROSPECTIVE JUROR 198: Because there was no actual
16 evidence against me. I was actually trying to break up a fight. But
17 because I was the only one that kind of stuck around to speak to security,
18 I was -- I was blamed for kicking somebody in the chest.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR 198: I have never heard about this
21 trial. Let me see here. And I can base my verdict solely on the evidence
22 presented by the -- during the trial. And I can be fair and impartial, and I
23 have never been a juror.

24 THE COURT: Anything about that situation that you feel
25 changed your views or confirmed your views of law

1 enforcement/criminal justice system? Or you think it was just a situation
2 that wasn't handled properly? What would you say?

3 PROSPECTIVE JUROR 198: I -- because it was downtown
4 here in Las Vegas, and it was -- it was at night; I think that the police
5 officers kind of just chalked it up to alcohol-induced fighting. They didn't
6 really take the time to talk to me. They -- they took my statement, but
7 they were speaking to the security guards more. I tried getting
8 surveillance from the -- what is that place, the Neonopolis, I think it is
9 called -- and nobody would return my phone calls. My attorney really
10 didn't do a great job going after that either. So I just kind of feel like
11 everybody was lazy about it. They just kind of chalked it up to you were
12 drunk and got in a fight. I wasn't even drunk. I wasn't even in the fight.
13 I was trying to break it up.

14 THE COURT: Anything about that impact you here as a
15 juror?

16 PROSPECTIVE JUROR 198: No.

17 THE COURT: Okay. All right. Thank you. I appreciate you.
18 And then, ma'am, how do I pronounce your last name?

19 PROSPECTIVE JUROR 198: Sukasearm.

20 THE COURT: Sukasearm. Okay. From the top, please?

21 PROSPECTIVE JUROR 198: I've lived in Clark County for 36
22 years. I have a high school diploma. I attended some college but no
23 degree. I'm an employee at Excalibur Casino and Hotel in the quick
24 service department as a lead. I am not married. I have no significant
25 other. I have no kids. Not been a victim of a crime or know anybody

1 who is a victim of crime. I have not been close to anybody that has been
2 accused of a crime. I have not heard anything about this trial. I can base
3 my verdict on evidence. I can be fair and impartial, and I have served as
4 a juror.

5 THE COURT: You have?

6 PROSPECTIVE JUROR 198: Yes.

7 THE COURT: What year was that and where was it?

8 PROSPECTIVE JUROR 198: It was about six or seven years
9 ago.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR 198: It was here.

12 THE COURT: All right. And was it was civil or criminal?

13 PROSPECTIVE JUROR 198: Civil.

14 THE COURT: And without telling me what the verdict was,
15 did you guys reach a verdict?

16 PROSPECTIVE JUROR 198: Yes.

17 THE COURT: And were you the foreperson?

18 PROSPECTIVE JUROR 198: No.

19 THE COURT: All right. Thank you.

20 All right. Ms. Jackson, whenever the microphone gets to
21 you, please?

22 PROSPECTIVE JUROR 198: I have lived in Clark County for
23 about 31 years. I graduated from high school, some college. I am
24 employed. I am a CCSD teacher. I am not married. I have no kids. We
25 did get robbed, and this was in 2006. My house did get robbed. The

1 person was not found. We did not get the valuables back that were
2 stolen. A lot of the valuables were able to rebought, but some were not.

3 THE COURT: And was anyone home when that happened?

4 PROSPECTIVE JUROR 198: No.

5 THE COURT: All right. And so -- and it was reported, but
6 nobody was found?

7 PROSPECTIVE JUROR 198: Correct.

8 THE COURT: How did you feel about law enforcement's
9 attempts to solve that crime?

10 PROSPECTIVE JUROR 198: I felt like they were doing their
11 job diligently to figure out who was involved.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 198: Keeping in touch with us, letting
14 us know. I don't have any regrets of reporting it or anything like that.

15 THE COURT: Okay. Thank you.

16 PROSPECTIVE JUROR 198: No one close to me has been
17 accused of a crime. I have not heard about this trial at all. Yes, I can be
18 -- yes, I can be fair on the -- on both sides. And yeah, I would be able to
19 pronounce my opinion, give my opinion honestly.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR 198: Yes.

22 THE COURT: And you said you could be fair and impartial to
23 both sides?

24 PROSPECTIVE JUROR 198: Yes.

25 THE COURT: And have you ever been -- yeah, have you ever

1 been a juror before?

2 PROSPECTIVE JUROR 198: No.

3 THE COURT: All right. Thank you.

4 Ms. Chauncey, badge number 216?

5 PROSPECTIVE JUROR 216: I have lived in Clark County for
6 nine years. I was in Rancho Cucamonga, California before that. I
7 attended college in New Mexico, studying sports management. I am
8 employed here in Nevada. I am a district manager for a chain of retail
9 stores. I am not married, but I have been in a relationship for six years.
10 He is also in retail. We do have 50-50 custody of his two daughters.
11 They are 11 and 9. I have -- I have not nor do I know anyone who has
12 been a victim of a crime. I have not nor do I know anyone who has been
13 accused of a crime. I do not know anything of this trial until today. I can
14 base my verdict solely off of the evidence, and I can be fair and impartial
15 on both sides.

16 THE COURT: All right. And ever been a juror before?

17 PROSPECTIVE JUROR 216: No, I have not.

18 THE COURT: All right. Thank you.

19 All right. How do I pronounce it, Desmarais?

20 PROSPECTIVE JUROR 263: It's Desmarais.

21 THE COURT: Desmarais, okay. Ms. Desmarais, go ahead.

22 PROSPECTIVE JUROR 263: I have lived in Clark County for
23 47 years. I went all the way through high school and appraisal trade
24 school. I am employed, I own my own real estate appraiser business,
25 appraisal business. I am married, and my husband is a CCSD teacher. I

1 have five children. Their ages are 40, 30, 27, 16, and almost 15. I have
2 three adult children, and they are servers, and they are in AT&T
3 management. Yeah, I had a family -- I have lived here most of my life,
4 just to say why I have got a pretty -- I had a family member, a close
5 family member, who was -- died in a murder-suicide at the state line a
6 few years back. She was elderly. The person died, so he was caught.
7 And I -- I don't know how it was handled because I am not sure that there
8 was anything criminal, like, afterwards --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR 263: -- because it was a murder-
11 suicide. And then my father served seven years in Indian Springs. I feel
12 that it was handled appropriately based on his crime. He had to do the
13 sentencing. I have not heard anything about this trial that makes it
14 where it would be difficult for me to be as a juror. And I actually would
15 like to be, and I always get challenged when I come up here because of
16 my dad, I think. And then can you base your verdict solely -- yes. I can
17 base my verdict solely on the evidence here. And I do feel I would be a
18 fair and impartial juror. And given my background with my dad, too, I
19 really feel like that actually helps. I think people hear it and they're
20 scared of me. But I have been involved with stuff like that, so I feel like I
21 know both sides, you know?

22 THE COURT: What -- how involved would you say you were
23 with the process with your dad? Would you go to court? Would you --

24 PROSPECTIVE JUROR 263: Not really with the court. It was
25 more the aftermath of when he was -- well, I did have to deal with his

1 lawyer and all that stuff when he was in jail, so there was a lot of that.
2 And then there was -- he had a business and I had to sell it. I was his,
3 not beneficiary, it's the person put in charge of him.

4 THE COURT: Power of attorney.

5 PROSPECTIVE JUROR 263: Yeah, power of attorney. Sorry, I
6 forgot that word.

7 THE COURT: That's okay.

8 PROSPECTIVE JUROR 263: So I had to do stuff like that. But
9 I -- I dealt with his lawyer, but not really during the course of his
10 sentencing, so.

11 THE COURT: Okay. All right. And thank you.

12 Ms. Rath, badge number 230?

13 PROSPECTIVE JUROR 230: I have lived in Las Vegas for 25
14 years. Excuse me. I went to high school. I am just recently retired. I
15 worked for Macy's for 15 years. I am married and my husband works for
16 Anderson Dairy. We have three children, ages 40, 34, and 32. My
17 youngest son is an attorney. My middle son is a teacher/high school
18 football coach. And my daughter owns her own business cleaning
19 houses.

20 THE COURT: What type of law does your son practice?

21 PROSPECTIVE JUROR 230: He is a sports agent attorney.

22 THE COURT: Okay. And is that here locally?

23 PROSPECTIVE JUROR 230: No, Texas.

24 THE COURT: All right. Thank you.

25 PROSPECTIVE JUROR 230: I haven't been the victim of a

1 crime nor has anyone I know been one. I haven't heard anything about
2 the trial. Yes, I could be -- I could base my verdict solely on the
3 evidence. And I could be fair and impartial to both sides.

4 THE COURT: And have you been a juror before?

5 PROSPECTIVE JUROR 230: No.

6 THE COURT: All right.

7 Okay. Ladies and gentlemen, we are going to take our lunch
8 break at this time. If you could do me a favor, Ms. Crossley, and Ms.
9 Magana, if you could stay seated for a moment.

10 Everyone else, during this recess, you must not discuss or
11 communicate with anyone, including fellow jurors, in any way regarding
12 the case or its merits, either by voice, phone, email, text, internet, or
13 other means of communication or social media. Please do not read,
14 watch, or listen to any news or media accounts or commentary about the
15 case.

16 Do not do any research such as consulting dictionaries, using
17 the internet, or using any other reference materials. Please do not make
18 any investigations, test the theory of the case, recreate any aspect of the
19 case, or in any other way investigate or learn about the case on your
20 own. And please do not form or express any opinion regarding the case
21 until it is submitted to you.

22 I will see you guys back at 10 to 2, so 1:50. Have a nice
23 lunch.

24 And Ms. Crossley and Ms. Magana, if you could stay seated
25 for a moment.

1 THE MARSHAL: All rise.

2 [Prospective jurors out at 12:50 p.m.]

3 [Outside the presence of the prospective jurors]

4 THE COURT: All right. And then Ms. Magana, can you do
5 me a favor?

6 And Officer Kennis, can you put Ms. Magana in the side
7 room while I speak to Ms. Crossley very quickly?

8 THE MARSHAL: Yes, ma'am.

9 THE COURT: Thank you.

10 THE MARSHAL: Ms. Magana?

11 THE COURT: All right. The record will reflect we are outside
12 the presence of the other prospective jury panel.

13 Go ahead and sit down, Ms. Crossley, badge number 090.
14 She is present with us. All attorneys, as well as Mr. Young, are present.

15 All right. Ms. Crossley, I just didn't want to talk about what
16 you possibly could have heard or knew in front of the other jurors. So
17 can you give me an idea of that?

18 PROSPECTIVE JUROR 090: It was just my dad was generally
19 talking that something happened, but that was pretty much it.

20 THE COURT: Okay. Just --

21 PROSPECTIVE JUROR 090: Yeah.

22 THE COURT: Oh, yeah. We don't have a mic. Sorry.

23 PROSPECTIVE JUROR 090: No, it's fine.

24 THE COURT: No, that's okay. I forgot. All right. So you
25 were just stating that you thought that you heard your dad and his

1 friends talking about something that had happened. Were you able to
2 glean any facts or any other information from that situation at all?

3 PROSPECTIVE JUROR 090: No, just that, like, an incident
4 happened, like, on his property.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR 090: Yeah.

7 THE COURT: State, any follow-up for Ms. C.?

8 MR. BROOKS: No, Judge.

9 THE COURT: Mr. Margolis, any follow-up?

10 MR. MARGOLIS: I need just a couple.

11 THE COURT: Yeah.

12 MR. MARGOLIS: Incident is really broad. Did you get the
13 impression that it was a violent incident?

14 PROSPECTIVE JUROR 090: No, just that something
15 happened.

16 MR. MARGOLIS: Just something happened --

17 PROSPECTIVE JUROR 090: Yeah.

18 MR. MARGOLIS: -- criminally investigated on the property?

19 PROSPECTIVE JUROR 090: Not even criminally. Just, like --

20 MR. MARGOLIS: Just --

21 PROSPECTIVE JUROR 090: -- something, yeah.

22 MR. MARGOLIS: -- that occurred?

23 PROSPECTIVE JUROR 090: Yeah.

24 MR. MARGOLIS: Okay. And you didn't ask any follow-up or
25 anything?

1 PROSPECTIVE JUROR 090: Not really.

2 MR. MARGOLIS: Did he know you overheard?

3 PROSPECTIVE JUROR 090: I was in the kitchen when he was
4 on the phone.

5 MR. MARGOLIS: So he probably didn't even know?

6 PROSPECTIVE JUROR 090: Yeah.

7 MR. MARGOLIS: Okay. Cool. Thank you.

8 THE COURT: All right. Thank you, Ms. Crossley, you can go
9 to lunch. We will see you in a little bit.

10 And then when you are ready, Officer Kennis, if could please
11 bring in Ms. Magana, badge number 109.

12 THE MARSHAL: Yes.

13 THE COURT: All right, Ms. Magana. I just didn't want to ask
14 you the question in front of everybody else in regards to what
15 information you may or may not have heard. Do you remember
16 anything about what you overheard or what you were notified about in
17 regards to the incident?

18 PROSPECTIVE JUROR 109: Honestly, I am not really sure I
19 remember a lot because a lot of things do happen at the Paris Hotel.

20 THE COURT: Yeah.

21 PROSPECTIVE JUROR 109: And I do believe that this is one
22 of them. It's just that I don't remember which location it was or when it
23 took place.

24 THE COURT: Okay. With the limited information that the
25 State told you, did anything sound familiar, like specific facts?

1 PROSPECTIVE JUROR 109: Honestly, no.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR 109: But when he mentioned -- when
4 you mentioned that it was taking place at the Paris Hotel, it did bring up
5 quite a bit of things. But what specifically happened that he did mention,
6 it does not sound familiar.

7 THE COURT: All right. State, follow-up?

8 MR. BROOKS: No, Judge.

9 THE COURT: Mr. Margolis?

10 MR. MARGOLIS: Nothing, thank you.

11 THE COURT: Thank you, Ms. Magana. Have a nice lunch.
12 We will see you about in an hour. Okay?

13 All right, guys. We are outside the presence of the
14 prospective jury panel. Is there anything anyone needs to put on the
15 record on behalf of the Defense, Mr. Margolis?

16 MR. MARGOLIS: Mr. Young wanted to ask you one thing
17 about -- it is not related to jury selection, Your Honor.

18 THE COURT: Okay. Yeah. Mr. Young, go ahead.

19 THE DEFENDANT: Okay. In one way it's not related, and in
20 one way, it is related.

21 THE COURT: Okay.

22 THE DEFENDANT: You had stated no matter what the law is,
23 right? Regardless if you disagree, just go along with the law, right?
24 Because the law was placed for a reason. You signed the affidavit for a
25 search warrant for my DNA?

1 THE COURT: I did?

2 THE DEFENDANT: Yes. To be placed on --

3 MR. BROOKS: Your Honor, do you want to see what he is
4 talking about here? Would it help?

5 THE COURT: Sure, yeah.

6 MR. BROOKS: Okay.

7 THE DEFENDANT: Well, that evidence, which is supposed to
8 be a rock, with my DNA and my blood, is supposed to be on there.
9 Because there is supposed to be two different bloods. One was
10 supposed to be the victim.

11 THE COURT: Thank you.

12 THE DEFENDANT: The other one is supposed to be mine.
13 On page 2 of that right there, right down at the bottom, you state if it
14 wasn't mine, I should be eliminated as a person in this criminal offense
15 case. It is written on there.

16 THE COURT: On page 2?

17 THE DEFENDANT: Yes. Page 2 down at the bottom. Do you
18 see where I got it [indiscernible]?

19 THE COURT: I see on page 1 that you have some markings.
20 But on page 2 --

21 THE DEFENDANT: Okay. Well, then on page 1, wherever the
22 markings is at.

23 THE COURT: Okay. It says your affiant believes that the
24 epithelial cells or blood sample when collected and submitted for DNA
25 laboratory analysis would either include or eliminate the listed person's

1 involvement. Okay?

2 THE DEFENDANT: Okay. True. Now, when you signed that
3 affidavit, you signed it so it can be executed, okay?

4 THE COURT: The search -- yeah, the search warrant I signed.

5 THE DEFENDANT: Okay. Right. They came and they
6 executed it.

7 THE COURT: Okay.

8 THE DEFENDANT: If it would have come back to be mine,
9 they would have in this courtroom parading yes, there is DNA on the
10 evidence.

11 THE COURT: Sure.

12 THE DEFENDANT: Okay? When it is not mine, right, we are
13 going through this process.

14 THE COURT: Right.

15 THE DEFENDANT: So it works two ways. One, since it is not
16 mine, the rock should never be spoken of as evidence, is one. And if it is
17 spoken of evidence, it should be spoken of Mr. Young didn't ever touch
18 the rock.

19 THE COURT: All right.

20 THE DEFENDANT: Do you see what I am saying? Or just
21 eliminate me as -- as the sworn affidavit states.

22 THE COURT: Okay. So let me talk to you a little bit about --
23 so this is, clearly, as you know, right, it is a search warrant. And I was on
24 -- I assume I was on search warrant duty at the time because each of us
25 -- there is 32 judges -- and each of us have to do about two to four weeks

1 a year of search warrant duty. All right? So I get this, and then they say
2 -- they have to tell me why that piece of evidence is important.

3 THE DEFENDANT: Uh-huh.

4 THE COURT: So they say there is a rock. It looks like it was
5 used in hitting someone over the head. The reason why it is important is
6 maybe we will be able to get DNA either to show who the victim is or
7 who the suspect is. Right?

8 THE DEFENDANT: Uh-huh.

9 THE COURT: So I sign it, and then they collect the rock. And
10 maybe later, they do some testing. And so you're right. If the State, if
11 the DNA came back as yours, the State would be able to use that
12 evidence and say his DNA is on here. This shows that he did it. But on
13 the flip side, if your DNA is not on it, then if Mr. Margolis believes it fit,
14 he can say look, the testing was done. His DNA is on it. They have no
15 proof. So each side can use it. But definitely, it doesn't mean that if your
16 DNA is on it you're guilty, and if your DNA is not on it you are not guilty.
17 Does that make sense? So sit is up for the attorneys to present that
18 information to the jury and then they can make that determination.

19 THE DEFENDANT: Okay. I hear you on that. But that is not
20 what is written down on there. Okay? When I was in CCDC, people had
21 gun cases.

22 THE COURT: Uh-huh.

23 THE DEFENDANT: Okay? Their epithelial cells wasn't on it
24 or -- or no sort of DNA. It was excluded from the case, like what that
25 affidavit said.

1 THE COURT: So no, that is not what the affidavit says. The
2 affidavit says your affiant believes the cells or blood sample when
3 collected and submitted for DNA would either include or eliminate the
4 person. So it just means it could include them or it could eliminate them
5 from the sample. It doesn't mean the case would be dismissed.

6 THE DEFENDANT: No, it is just eliminate or --

7 THE COURT: Include or eliminate.

8 THE DEFENDANT: -- include or eliminate the person of this
9 criminal offense.

10 THE COURT: The person's involvement, yeah.

11 THE DEFENDANT: Involvement.

12 THE COURT: Right.

13 THE DEFENDANT: Okay. Well, wait a second, hear me out.
14 Well, their involvement was eliminated. You know? They got let go and
15 went home --

16 THE COURT: Uh-huh.

17 THE DEFENDANT: -- and everything.

18 THE COURT: Yes.

19 MR. MARGOLIS: All right. So yeah, Judge --

20 THE DEFENDANT: You see what I'm saying?

21 MR. MARGOLIS: -- if I can --

22 THE COURT: Sure.

23 MR. MARGOLIS: -- if I could try to --

24 THE COURT: Yep.

25 MR. MARGOLIS: -- you know, expedite this for everybody.

1 THE COURT: Yes.

2 MR. MARGOLIS: Mr. Young thinks that because the rock
3 could not identify and isolate his DNA --

4 THE COURT: Right.

5 MR. MARGOLIS: -- that that application and affidavit in
6 support of the search warrant, the failure to identify his DNA or epithelial
7 cells should exclude him from the rock, and therefore the case should be
8 dismissed. We have had discussions about it.

9 THE COURT: Sure.

10 MR. MARGOLIS: I certainly did not tell him that I believe that
11 the application and affidavit said that.

12 Correct me if I am wrong, Andrew, but I believe you said that
13 someone had indicated that to you?

14 THE DEFENDANT: Yes.

15 THE COURT: Mr. Fisher [phonetic]?

16 THE DEFENDANT: No. Mr. -- Detective Byrd. When he came
17 and got that.

18 THE COURT: Oh, okay.

19 THE DEFENDANT: He said if it's not yours, don't worry about
20 it. Right? You know, everything will just be going away.

21 THE COURT: Oh, okay. Well, that is definitely something
22 that you and Mr. Margolis can talk about in regards to cross-examining
23 the detective. But from just a legal perspective, this document doesn't
24 mean that. But if that is what Detective Byrd told you and you want Mr.
25 Margolis --

1 THE DEFENDANT: Because he is the one that pointed that
2 line out. That's why it -- that line always stuck with me.

3 THE COURT: Sure.

4 THE DEFENDANT: You know? Because like I told him --

5 MR. MARGOLIS: Okay. I would rather you didn't.

6 THE DEFENDANT: Okay. All right. On cross, all right. Well,
7 we are going to leave it with that.

8 THE COURT: Okay. All right. Well, your objections are
9 noted for the record.

10 And I will give you back this search warrant, okay?

11 MR. BROOKS: Thanks, Judge.

12 THE COURT: All right, guys. We will see you in a little bit.
13 We can go off the record.

14 [Recess from 1:02 p.m. to 1:57 p.m.]

15 THE COURT: Nevada v. Andrew Young, C-350623, Mr.
16 Young is present, with counsel, Mr. Margolis. Ms. Sullivan and
17 Mr. Brooks are present on behalf the State.

18 Do the parties stipulate to the prospective jury panel?

19 MR. MARGOLIS: Yes, Your Honor.

20 MS. SULLIVAN: Yes, Your Honor.

21 THE COURT: All right. At this point in time the Court has
22 concluded its questioning, so at this juncture we'll pass it over to the
23 State, to start theirs.

24 MR. BROOKS: Hi everybody. So I'm going to start by kind of
25 apologizing right from the beginning, for me and Mr. Margolis, and

1 here's why. We're about to ask you some questions, and it is not our
2 intention, like the Judge said, to prod, or to push you, but some of these
3 questions might be a little be invasive, only because the only way that
4 we found to get to a fair and impartial jury is to ask you guys kind of
5 about your life.

6 So some of them might be a little bit personal and/or we
7 might push you on some things, it's not our intention. If we go too far
8 on something that is personal, you know, let us know, and we'll do it
9 outside the presence, but for the most part, you know, we won't go
10 there. The other thing that we're going to do is, I'll probably ask some
11 general questions, and my questions, like Her Honor said, are confined
12 to the people who are the first 28, so you 4, and you 24.

13 I'll start by asking kind of a broad question of the group, and
14 then likely, and then if you guys wanting a turn, sit there and then I'll just
15 start picking people. I won't speak to all of you. I wish I could tell you I
16 had some plan, it's just, you know, we ask some questions of some
17 people, don't feel bad if I don't talk to you.

18 So the first question is just kind of general. And it is -- you
19 guys filled out some questionnaires. Now due to some weird things we
20 didn't get to look at them quite as much as we typically do, so I'm going
21 to ask two of the questions that were in there, and it's things that
22 essentially, you know, we talk about a lot in society right now; and I
23 believe Ms. Baird kind of touched on it.

24 Who thinks the criminal justice system is not fair? Is there
25 anyone who thinks the criminal justice system is just not fair? Seeing no

1 hands. Now I did get a chance to look at them close enough to know
2 that wasn't all your answers, so I'll just kind of start, and we'll see if we
3 can kind of get the discussion going.

4 So, Ms. Baird, I'm going to kind of start with you.

5 PROSPECTIVE JUROR 056: I don't want to say definitively
6 that the criminal justice system isn't fair. I know in my own life I've, you
7 know, seen other people go through instances that perhaps weren't fair,
8 and that like might leave a mark with me, or other people, depending on
9 those circumstances, but I wouldn't say overall, like black and white, the
10 criminal justice system isn't fair.

11 MR. BROOKS: Okay. So Her Honor is better asking
12 questions than I am, and so when she was kind of talking to you at the
13 end she said something to the effect of, now in thinking about it again,
14 are you going to try to be fair and impartial, and you said, "Yes."

15 PROSPECTIVE JUROR 056: Yes.

16 MR. BROOKS: Now the State's sitting over there. You can
17 understand that I'm a little concerned, because prior to that you said, I'm
18 going to be biased, I think I will be biased. I think, or I hope to be fair, and
19 then in your questionnaire you kind of said, three or four times that you
20 don't think you'd be fair and impartial. So tell me a little bit about what
21 you really were trying to convey, or what I should be thinking?

22 PROSPECTIVE JUROR 056: I want to do what's right, as far
23 as following -- you know, I think that as far as jury duty, it is a duty, it's a
24 privilege, and I mean maybe in my situation I'm more conflicted with
25 things I've been exposed to in the past, and where I'm sitting now.

1 MR. BROOKS: Okay. You used the words "racial profiling"
2 and you used, I think, "racial injustice" earlier?

3 PROSPECTIVE JUROR 056: Correct.

4 MR. BROOKS: Is the State going to have some sort of
5 different burden based on kind of your feelings towards racial injustice
6 or profiling that you mentioned?

7 PROSPECTIVE JUROR 056: Could you maybe clarify?

8 MR. BROOKS: So is the State going to have some different
9 burden than the typical burden of proof, based on kind of your
10 preconceived notions that you mentioned about profiling or racial
11 justice?

12 PROSPECTIVE JUROR 056: I don't believe so. I don't know
13 that I understand the question as clear --

14 MR. BROOKS: Yeah. That's because it's a poor --

15 PROSPECTIVE JUROR 056: -- I'm sorry.

16 MR. BROOKS: -- it's a poor -- it's a poor question, it's not
17 your fault.

18 PROSPECTIVE JUROR 056: I apologize.

19 MR. BROOKS: Are you going to require DNA, finger prints,
20 some sort of eyewitness. Is there something that you have to see, or you
21 can't vote guilty, just from the start?

22 PROSPECTIVE JUROR 056: To me it seems like a no-brainer
23 to say "evidence."

24 MR. BROOKS: Sure. Is there anything specific, is what I'm
25 saying?

1 PROSPECTIVE JUROR 056: Not anything specific, no.

2 MR. BROOKS: Okay. If you were me over there, and had
3 heard the kind of biased, and, oh, I don't know, and then just at the end
4 said "yes," would you feel that Ms. Baird can be a fair juror to both sides?

5 PROSPECTIVE JUROR 056: If I were in your shoes I would -- I
6 can totally understand why you would have concerns, yes.

7 MR. BROOKS: Okay. And I know you said you want to be
8 fair, and we all want to be fair.

9 PROSPECTIVE JUROR 056: Correct.

10 MR. BROOKS: All right.

11 PROSPECTIVE JUROR 056: I was -- I was raised to believe in
12 the system.

13 MR. BROOKS: Will you leave your biases out of the
14 courtroom, and only decide this case based on the evidence, and not let
15 any pre-conceived bias come in?

16 PROSPECTIVE JUROR 056: Yes.

17 MR. BROOKS: Okay. So thanks for being the first one to be
18 questioned.

19 So, guys, anyone else, now that we've kind of talked about
20 that, have an opinion on that phrase, "is the criminal justice system fair"?
21 Seeing no hands.

22 And now I'm going to ask kind of a different question, and
23 that was the follow-up. Is the criminal justice system effective? Okay. A
24 single hand, could you pass it to Ms. Callis?

25 PROSPECTIVE JUROR 133: So I would have to say that in

1 general I think the criminal justice systems is very fair in terms of
2 foundation. It has a like very well constructed structure with the end
3 goal to provide a fair and impartial way to judge people, and to see if
4 they're going through the right process, and if they're even guilty.

5 In terms of effectiveness, I see it as it's doing its job. I do
6 think that there are ways that it's flawed in the sense that it's the way it's
7 -- the way people interact with the system, there's flaw in that.

8 However, it's not -- I wouldn't say it's ineffective. I say it's effective to a
9 certain extent. It could be more effective, but I think it's doing its job.

10 And it's because of some of the people in the system, or
11 some of the -- I won't say like foundations of the system that is creating
12 the ineffectiveness of it. Like just for example, like long trial times, or
13 long waits between trials. Like, for example, this one happened in 2020,
14 correct? So it -- like long times between trials is one of the, I would say,
15 ineffective aspects of it, but I don't think inadvertently it's ineffective.

16 MR. BROOKS: How would you define the word "effective"?
17 Because that question always confuses me. I read it, it says, so how is
18 the criminal justice system effective, I don't know what "effective" means
19 in that context? How do you define it?

20 PROSPECTIVE JUROR 133: I would say effectiveness is the
21 ability to achieve the goal in which something was put forth. So if the
22 goal of the criminal justice system is to try members of our community
23 in a fair and unbiased way, I would say, yes, its effective in doing so.

24 I do think that there are ways to be more effective, in the
25 sense that we could reach the goal in better ways, with less wait times,

1 with better, I would say better representation for people who might not
2 be able to afford, like defense, so --

3 MR. BROOKS: Okay. You said you deal with ethic's law and
4 policies, is that it was?

5 PROSPECTIVE JUROR 133: Yes. I have a double major from
6 UNR. One of my majors is philosophy, emphasis on ethics law politics. I
7 did a lot of -- it's -- it was very like philosophy-based, and then my other
8 major was international affairs, emphasis in ethics law and diplomacy.

9 MR. BROOKS: And so you're getting ready to kind of prep a
10 trip for international development with UAE, correct?

11 PROSPECTIVE JUROR 133: Yes. We're not working with --
12 we're attending a trade mission in -- it's called Trade Winds, and it's a
13 Dubai Expo. So we're taking about 16 companies and three academic
14 delegations to Dubai. We're going to Abu Dhabi, and then Istanbul, and
15 to do business, like [indiscernible] meetings, and a variety of other
16 things.

17 MR. BROOKS: Have you had to learn to handle and prep the
18 other members of your team on the legal system there, and what
19 gratifications they could face.

20 PROSPECTIVE JUROR 133: Most of the laws that we
21 discussed, with a lot of the businesses we're taking are regarding like
22 COVID protocol, and other sort of, I would say like customary
23 backgrounds, like type of clothing to wear, modesty, things like that. But
24 nothing too much on, I would say the law side of things, because we're
25 doing a more business-oriented trip, less than the government one.

1 MR. BROOKS: Okay. Thank you.

2 Next question is anyone -- well, I'll word it this way. Who
3 has kind of significant familiarity with firearms? Anyone have significant
4 familiarity with firearms? All right. Seeing a few hands. I'll just kind of
5 pick on Mr. Jeung. And, Judge there's approximately five hands; Mr.
6 Hentges, Ms. Diaz, Jeung and Del Cano?

7 PROSPECTIVE JUROR 111: Yes, sir.

8 MR. BROOKS: Mr. Jeung?

9 PROSPECTIVE JUROR 245: Yeah.

10 MR. BROOKS: Do you have any strong feelings, one way or
11 the other. So you have a familiarity with them, anything like strong
12 feelings one way or the other?

13 PROSPECTIVE JUROR 245: I mean, I'm a certified -- I'm a
14 certified AR15 Armor, so naturally I'm born and raised as -- air force, kind
15 of raised on firearms, my whole life.

16 MR. BROOKS: Oh, okay.

17 PROSPECTIVE JUROR 245: So I like them.

18 MR. BROOKS: So what are you certified in?

19 PROSPECTIVE JUROR 245: AR15, like I'm certified as an
20 armor for AR15s.

21 MR. BROOKS: Making uppers and lowers?

22 PROSPECTIVE JUROR 245: Working on servicing them.

23 MR. BROOKS: Okay. No specific -- you don't necessarily --
24 you'll only deal with uppers, only deal with lowers, just --

25 PROSPECTIVE JUROR 245: The system in general.

1 MR. BROOKS: Okay. And what was it you said, you are a
2 business analyst, is that what you --

3 PROSPECTIVE JUROR 245: Uh-huh.

4 MR. BROOKS: Explain that to me a little bit. What did you
5 mean by --

6 PROSPECTIVE JUROR 245: Oh, no. Yeah. It's all related to
7 that firearms --

8 MR. BROOKS: [Indiscernible].

9 PROSPECTIVE JUROR 245: Yeah. I run numbers, I'm a
10 business analyst for the FSA. I do analysis on supply chain and
11 inventory.

12 MR. BROOKS: Okay. So you deal with balance sheets a lot?

13 PROSPECTIVE JUROR 245: That's accounting, I don't touch
14 that.

15 MR. BROOKS: Okay. You deal with -- do you have a budget,
16 that you have to kind of balance?

17 PROSPECTIVE JUROR 245: No, no. I do analysis on the
18 inventory and supply chain numbers, and like costs for shipping and
19 things like that.

20 MR. BROOKS: Inventory outstanding and/or --

21 PROSPECTIVE JUROR 245: Yeah. Inventory coming in,
22 inventory going out, shipping costs, how many boxes we ship in a day,
23 widgets we ship in a day, things like that.

24 MR. BROOKS: Okay. Fair to say that when you deal with
25 like, you know, accounts receivables, days outstanding, or inventory

1 days outstanding, and the cash conversion cycle, it equals zero at some
2 point, right; things basically balance out?

3 PROSPECTIVE JUROR 245: Yeah. They should.

4 MR. BROOKS: Okay. And are you someone who won't be
5 comfortable if you sit through this trial and there are still some
6 questions? I mean, there will be certain things in real life, and not
7 everything bad answers to zero --

8 PROSPECTIVE JUROR 245: Uh-huh.

9 MR. BROOKS: -- fair?

10 PROSPECTIVE JUROR 245: Fair enough.

11 MR. BROOKS: Are you someone who can use common
12 sense, in kind of your background, and basically say, okay, well, that's
13 my work job that all the numbers equal, but here, real life is a little
14 messy or different?

15 PROSPECTIVE JUROR 245: Yeah. I mean, I definitely
16 understand, you know, there's always -- you always don't have the
17 answer for everything, that's life. But also, additionally, it's my job to
18 find out, to ask the questions and figure things out; I'm an analyst. So
19 whatever holes are there you kind of have to have to understand why,
20 with facts and evidence to take it up with; to fill in the gaps.

21 MR. BROOKS: Okay. Thank you.

22 Let's go -- anyone within a specific medical trade? So
23 whatever that is, Ms. Nguyen?

24 PROSPECTIVE JUROR 013: I do medical all day. So x-rays,
25 ETU. I used to work at UMC for trauma, so I would see like a lot of the

1 assault cases coming in, and stuff like that via trauma bay.

2 MR. BROOKS: So that CT tech, what would you say you do
3 during the day; what do you spend your time doing?

4 PROSPECTIVE JUROR 013: Taking in patients, explaining the
5 procedures to them, getting them comfortable enough to go through the
6 scanner, and like putting like what's more important, and different tasks
7 that's more important in front of the other ones. So just prioritizing.

8 MR. BROOKS: And do you basically, then, take them through
9 the medical imaging?

10 PROSPECTIVE JUROR 013: Uh-huh.

11 MR. BROOKS: Do you ever look at the medical imaging?

12 PROSPECTIVE JUROR 013: Just to make sure there's
13 nothing anything major.

14 MR. BROOKS: Okay. Someone didn't move, or essentially
15 the photo --

16 PROSPECTIVE JUROR 013: Yeah. Make sure that it's a
17 diagnostic, and then also if there's anything crazy like bleeds, or
18 dissections, or something that's like extremely urgent, then that gets to
19 wherever the doctor.

20 MR. BROOKS: Are there times that essentially you would see
21 something in that imaging that someone like me, or another juror,
22 wouldn't be able to see?

23 PROSPECTIVE JUROR 013: Yeah.

24 MR. BROOKS: Okay. And so basically you stare at those
25 kind of photos all day long?

1 PROSPECTIVE JUROR 013: Pretty much.

2 MR. BROOKS: Are they always clear?

3 PROSPECTIVE JUROR 013: No. No. I'm not -- technically,
4 I'm not a radiologist, which is the doctor that actually reads images, I just
5 make sure the images are there.

6 MR. BROOKS: Okay. Sometime does one or two of the
7 initial images help you kind of understand what's in the third or fourth
8 image?

9 PROSPECTIVE JUROR 013: Yeah.

10 MR. BROOKS: And even if that was blurry, or something like
11 that, I guess?

12 PROSPECTIVE JUROR 013: Yeah.

13 MR. BROOKS: Let me ask this, to the panel. Anyone have
14 any reasons why someone wouldn't want to speak to law enforcement?
15 None -- no? Ms. Callis?

16 PROSPECTIVE JUROR 133: Is it like a -- I'm sorry. Are you
17 just asking for like a list of why people don't go to law enforcement?

18 MR. BROOKS: Let's just say someone doesn't want to speak
19 law enforcement, why? Give me some reasons.

20 PROSPECTIVE JUROR 133: Well, I mean, I know people like
21 because of immigration status they don't want to speak to law
22 enforcement, because they're here illegally, or awaiting like a green card,
23 or anything like that. Also, if there's illegal activity. I know for example,
24 someone who was drinking under age at my college campus, they had to
25 go to the hospital, but they were unsure about like going to the hospital,

1 calling the police, even though they were unsafe because of their age,
2 and they didn't want to get in trouble from law, because they're doing
3 illegal activity, even though they needed some help. Other -- there's
4 various situations. I think it's always like in the back of people's mind, is
5 like, would all -- will I get in trouble if I call the law enforcement, or could
6 I possibly be in trouble.

7 MR. BROOKS: Okay. Thank you.

8 Can you pass the mic from -- behind you to Ms. Lee? Give
9 me one or two reasons why someone wouldn't want to speak to law
10 enforcement?

11 PROSPECTIVE JUROR 088: I mean, I think that those were
12 really good options. If they're hiding something, or embarrassed, I
13 guess.

14 MR. BROOKS: Since you have the microphone I'll
15 [indiscernible] what's your kind of opinion on what I asked earlier, as far
16 as criminal justice; is it fair, is it effective?

17 PROSPECTIVE JUROR 088: I think it is fair and effective, but I
18 think, as she had mentioned earlier, that there are little things that you
19 can find in really anything in the world, where they could be a flaw, or
20 you could find something more efficient, but I think all in all, it is fair.

21 MR. BROOKS: Do you have any positives, or overwhelming
22 positive, or overwhelmingly negative feelings toward law enforcement,
23 so one way or the other?

24 PROSPECTIVE JUROR 088: Honestly, no.

25 MR. BROOKS: Okay. What about -- would you have to hear

1 from a victim, in order to vote in this case?

2 PROSPECTIVE JUROR 088: I think it just kind of depends on
3 the scenario. I wouldn't say that I have to hear from a victim, but if
4 there's a reason that we should hear their side I think it's definitely
5 beneficial, if we're wanting to give our weigh-in.

6 MR. BROOKS: Okay. Anyone, the panel, broadly, would
7 anyone say, hey, I can't vote one way or the other if I don't hear from the
8 main victim that was in the indictment? Mr. Taylor, you're shaking your
9 head, so I'll let Ms. Lee pass the microphone to you

10 PROSPECTIVE JUROR 084: Do you want me to answer that
11 now?

12 MR. BROOKS: Yeah.

13 PROSPECTIVE JUROR 084: If the evidence is overwhelming,
14 and you don't need to hear from somebody, that's a very -- I mean, it's
15 kind of a --

16 MR. BROOKS: So let me pick on you for a second.

17 PROSPECTIVE JUROR 084: Yes.

18 MR. BROOKS: And I know that we bring you guys here, and
19 then you say some phrase and then just harp on it for a while, but -- so
20 you scared me twice there, you kind of said "evidence overwhelming"
21 and earlier you said, "I'm going to hold the State to a higher burden,"
22 and then just kind of clarify that?

23 PROSPECTIVE JUROR 084: Yeah.

24 MR. BROOKS: Is there something that you would have to
25 see, in order to find guilt beyond a reasonable doubt, some type of

1 evidence, simply that you require?

2 PROSPECTIVE JUROR 084: Specific -- I can't speak to
3 specific evidence, but generally if a case is going to be prudent beyond a
4 reasonable doubt, then I would need to have some fact that would prove
5 that that person did it.

6 MR. BROOKS: Sure. What do you do? I might have missed
7 that, so in Denver and then here, what --

8 PROSPECTIVE JUROR 084: Well, I -- well, in Denver I worked
9 -- well, I didn't work in Denver, I worked in Vail, Colorado. So I was a
10 manager for Vail Resorts, like in the lift off department, and then here I'm
11 an inventory manager, for marijuana dispensary. And then that involves
12 like compliance with the State.

13 MR. BROOKS: Oh, Okay. Okay. You, any thoughts or
14 comments with regard to criminal justice, fair, effective, cops, positive,
15 negative feelings?

16 PROSPECTIVE JUROR 084: Usually when I see things around
17 the country I know that I'm not aware of local laws. So I don't really
18 have the ability to speak on their laws and I don't know them.

19 MR. BROOKS: So no overwhelmingly negative or positive
20 feelings towards law enforcement, one way or the other?

21 PROSPECTIVE JUROR 084: No. I mean -- no.

22 MR. BROOKS: No, that's fine.

23 If you could pass the microphone behind you to Ms. Shanks.
24 Ms. Shanks, was it -- you studied for a psychology degree?

25 PROSPECTIVE JUROR 007: Yes.

1 MR. BROOKS: Tell me, and so this one I always kind of find
2 interesting, how would you define "psychology" and what prompted you
3 to have interest in that area?

4 PROSPECTIVE JUROR 007: I'm currently a caseworker --

5 MR. BROOKS: Okay.

6 PROSPECTIVE JUROR 007: -- so I deal with the population,
7 just every day. So with that being said, that's what brings me -- I like -- I
8 like to sit there and help people.

9 MR. BROOKS: Caseworker, what kind? Sorry, I might have
10 missed that, where --

11 PROSPECTIVE JUROR 007: I do benefits.

12 MR. BROOKS: Oh. And so in dealing with one-on-one with
13 people, that kind of prompted you to study psychology?

14 PROSPECTIVE JUROR 007: Correct.

15 MR. BROOKS: Now kind of a hypothetical question. So
16 you're 16 and 15 year old?

17 PROSPECTIVE JUROR 007: Yes.

18 MR. BROOKS: If you could choose anything for them to go
19 into, anything, what would it be?

20 PROSPECTIVE JUROR 007: My daughter wants to be a
21 lawyer, and my son wants to go into the service.

22 MR. BROOKS: Okay. But that's what they want. What you
23 plan for me?

24 PROSPECTIVE JUROR 007: My daughter, definitely a lawyer,
25 because she likes to argue. My son, I would say, he's very good with

1 details, so I would say anything that's dealing with like cars, is his go to
2 in life.

3 MR. BROOKS: Okay. Thanks.

4 If you could pass the microphone to Mr. Paoni. I missed,
5 your two adopted kids, how old were they?

6 PROSPECTIVE JUROR 009: When I adopted them, or now?

7 MR. BROOKS: Now.

8 PROSPECTIVE JUROR 009: They're both 11.

9 MR. BROOKS: Okay. The same question. You get to pick,
10 what do you want them to go into? Tell me what you would decide?

11 PROSPECTIVE JUROR 009: My one son, probably a lawyer
12 or a doctor, he's very intelligent. My other son he has autism, so --
13 which is everyday life, just to be able to think for himself.

14 MR. BROOKS: Kind of an odd segue, but you have the
15 microphone. Homelessness. Any -- any basically preconceived notion,
16 or something as far as people who are homeless?

17 PROSPECTIVE JUROR 009: No. I don't think there's any --
18 some are probably mentally ill, and some are just down on their luck. I
19 don't think they're there because they want to be. So --

20 MR. BROOKS: With regard to that, so do you believe that
21 someone who's let's say mentally ill, and it led to homelessness, would
22 you say that they're entitled to the same protection under that law, as
23 you and me?

24 PROSPECTIVE JUROR 009: Yes.

25 MR. BROOKS: Even though they theoretically might not go

1 to a home each night?

2 PROSPECTIVE JUROR 009: Yeah. I think everyone should
3 have the same protection, whether they have home, or whether they're
4 on the street.

5 MR. BROOKS: Could you pass the microphone to Ms. Reed.
6 Ms. Reed, what do you do, I missed it, I'm sorry.

7 PROSPECTIVE JUROR 025: Oh, I work in banking and I'm in
8 mid-level management.

9 MR. BROOKS: Okay. Explain what kind of -- what do you do
10 within your bank?

11 PROSPECTIVE JUROR 025: I deal with employees every day.

12 MR. BROOKS: Uh-huh.

13 PROSPECTIVE JUROR 025: I kind of give out the work. I
14 assign work to every single employee, every day.

15 MR. BROOKS: Okay. Are you comfortable with kind of what
16 I was asking Mr. Jones, sometimes in real life things don't add up to
17 zero, the balance sheet doesn't basically balance out?

18 PROSPECTIVE JUROR 025: Yes.

19 MR. BROOKS: And you have to kind of look at things and
20 say, well, real life, this and that, and there's going to be unanswered
21 questions. Are you comfortable using your background, your
22 experience, and determining what occurred, without having every single
23 line item filled?

24 PROSPECTIVE JUROR 025: Yes. For me that's life.

25 MR. BROOKS: Okay. I'll ask you this, and then I'll actually

1 ask the entire panel this question. Someone comes in here and speaks
2 to you?

3 PROSPECTIVE JUROR 025: Yes.

4 MR. BROOKS: Who's a felon --

5 PROSPECTIVE JUROR 025: Yes.

6 MR. BROOKS: -- in CCD. Would you be able to listen to
7 what they have to say, and based on how it fits in with the evidence,
8 determine if they're credible or not?

9 PROSPECTIVE JUROR 025: Yes.

10 MR. BROOKS: So would you automatically disbelieve this
11 person, if they just came from CCD, or that you heard they're a felon?

12 PROSPECTIVE JUROR 025: No, I will recall the evidence.

13 MR. BROOKS: And so essentially, we can -- would you agree
14 with the statement that you could not like someone, and then -- but still
15 find them to be truthful or believable?

16 PROSPECTIVE JUROR 025: Yes. I have that every day at
17 work.

18 MR. BROOKS: And now for the panel. Anyone have any
19 opinion or strong commentary with regard to that? Can you dislike
20 someone, or find that they have done things that are wrong in the past,
21 but still find them to be credible, if it fits -- if it makes sense? Ms. Moon,
22 were you shaking your head, yes?

23 PROSPECTIVE JUROR 078: Yeah.

24 MR. BROOKS: Okay. Let me pick on you for a second.

25 PROSPECTIVE JUROR 078: Okay.

1 MR. BROOKS: If someone didn't act exactly how you would
2 in a situation, would you automatically disbelieve them?

3 PROSPECTIVE JUROR 078: No.

4 MR. BROOKS: Why, and why not?

5 PROSPECTIVE JUROR 078: So I dealt with this on a regular
6 occurrence with the work that I do anyway, and so I have to look at the
7 information that's provided, and kind of go off of that, and kind of make
8 a determination.

9 MR. BROOKS: Well, what about your feelings, one way or
10 the other on the homelessness question. Do you have any strong
11 feelings about homelessness, or whether or not someone who is
12 homeless, will deserve the same protection under the law?

13 PROSPECTIVE JUROR 078: I do believe they deserve the
14 same protection under the law. I think there's a lot of questions that
15 have to be asked, to like up and to the point of homelessness. So I don't
16 think that that's just a straightforward -- I do believe that they are owed
17 the same justice, right? I don't -- I think that there's a lot more questions
18 that have to be asked, as to what drove them to that point.

19 MR. BROOKS: And we all degree that society, similar to the
20 kind of criminal justice system, in terms of we could fix, or we could
21 have better ways of dealing with homelessness?

22 PROSPECTIVE JUROR 078: Correct.

23 MR. BROOKS: But as far as you're able to kind of confine
24 whatever it is to the facts here, and apply the law on the facts, in
25 deciding your verdict?

1 PROSPECTIVE JUROR 078: Yeah. Absolutely.

2 MR. BROOKS: Similarly, we throw around the terms
3 "presumption of innocence" and "burden of proof," and that will all be
4 defined for you later. But just, can I ask you, are you comfortable with
5 the fact that the burden is entirely on the State? So the State brought the
6 charging document, and so the burden of proof upon the State.
7 Mr. Margolis can sit there the entire trial, and I'm sure that he won't, and
8 do nothing, but if the State doesn't prove its case beyond a reasonable
9 doubt, you would have to return a verdict of not guilty; are you okay with
10 that?

11 PROSPECTIVE JUROR 078: Yes, I understand that.

12 MR. BROOKS: On the flip side, if you were to go back there
13 after the evidence, and you've looked at it, and if that burden had been
14 met, couldn't you also come back in this courtroom, and say, proved it
15 beyond a reasonable doubt, guilty?

16 PROSPECTIVE JUROR 078: Yes.

17 MR. BROOKS: Anyone, along those lines, and it was in the
18 questionnaires, we didn't have chance to get to it, there was that
19 question that's something's defective. Any moral, religious, ethical,
20 social, or personal justice kind of issue that would prevent you from
21 sitting in judgment; so would prevent you from rendering a verdict?
22 Whether it's a -- you know, sometimes there's a religious belief,
23 sometimes there's some ethical belief. Does anyone have the answer,
24 that, yes, there's -- I just can't render a verdict? Seeing no hands. Can
25 you pass the microphone down to Ms. Diaz, because you kind of gave

1 me a look, you're the only one who didn't --

2 PROSPECTIVE JUROR 198: I was trying to understand.

3 MR. BROOKS: Yeah. So you kind of gave me a look, it was a
4 long question, but any sort of internal code that says, I can't render a
5 verdict?

6 PROSPECTIVE JUROR 198: No.

7 MR. BROOKS: Could you, if the State doesn't prove its case
8 beyond a reasonable doubt, come back in here, look us in the eyes, and,
9 not guilty, you didn't prove it?

10 PROSPECTIVE JUROR 198: If I feel like you didn't prove it?

11 MR. BROOKS: Yeah.

12 PROSPECTIVE JUROR 198: Yeah.

13 MR. BROOKS: Similarly, if you felt that the evidence met
14 beyond a reasonable doubt, could you come back in here, look to
15 Defendant's table, in the eye, and say, guilty, you did it?

16 PROSPECTIVE JUROR 198: Yes.

17 MR. BROOKS: Is there going to be any part of you, I kind of
18 heard that there was a battery, the alcohol abuse thing, that is going to at
19 some point in the trial, well, it's safe to say, you know, you're wasting
20 resources on this, and didn't waste resources looking into the mine, and
21 kind of hold it against us?

22 PROSPECTIVE JUROR 198: No. Because my situation was
23 different. There was no real investigation into anything. They basically
24 just took the statement as it was and rode with that.

25 MR. BROOKS: Okay. So fair to say you can leave that out

1 and --

2 PROSPECTIVE JUROR 198: Sure.

3 MR. BROOKS: But that's just in criminal justice --

4 PROSPECTIVE JUROR 139: Yes.

5 MR. BROOKS: What prompted that?

6 PROSPECTIVE JUROR 198: I was in the service, when I got I
7 was looking into going into law enforcement. And so I figured I would
8 go to school, just to understand it better.

9 MR. BROOKS: Okay. And did you end up going into that
10 career at all or, no?

11 PROSPECTIVE JUROR 198: No.

12 MR. BROOKS: What did you end up doing?

13 PROSPECTIVE JUROR 198: I work for Caesar's.

14 MR. BROOKS: [Indiscernible].

15 THE MARSHAL: I work in logistics.

16 MR. BROOKS: If you could pass the microphone next to you,
17 to Mr. Cupo.

18 PROSPECTIVE JUROR 088: Thanks.

19 MR. BROOKS: Was it digital cinema at UVSC?

20 PROSPECTIVE JUROR 088: EVU, yeah.

21 MR. BROOKS: EVU. What does that mean, what is digital
22 cinema?

23 PROSPECTIVE JUROR 088: It's film production. The actual
24 degree says digital communications and technology, because it's an
25 associate's, instead of a bachelor. But it's just film production, on-set,

1 post production, pre-production, writing, et cetera.

2 MR. BROOKS: Oh, okay. Does that deal with making films,
3 at all?

4 PROSPECTIVE JUROR 088: Yeah.

5 MR. BROOKS: And I ask, because you know I'm going to put
6 together a PowerPoint, and I'm not that good. Are you going to be
7 judging it, saying, hey, this kid does not know how to work this?

8 PROSPECTIVE JUROR 088: I mean, that's what I'm here for --

9 MR. BROOKS: Now with regard to digital cinema, some
10 camera is better than others?

11 PROSPECTIVE JUROR 088: Yeah.

12 MR. BROOKS: Can some cameras capture different things
13 more effectively than others?

14 PROSPECTIVE JUROR 088: Yeah. That's right.

15 MR. BROOKS: Why? What is it about -- like the purpose, I
16 guess, that causes that?

17 PROSPECTIVE JUROR 088: Well, it would be depending on
18 where it is. So for example, like the RE4K, the stuff they're shooting, you
19 know, the big Hollywood films that we see, they've got these huge
20 sensors. They let in a lot of light, they can filter it properly to get you a
21 nice balanced, unsaturated flat image, so that you could then, in post,
22 make it look however you need to, or want to. Or say like a phone
23 camera, or like a DSLR, just a digital camera recorder, it's just going to
24 give you -- it's going to do its best to replicate what it's seeing, instead of
25 having any sort of effect, or any sort of filter.

1 MR. BROOKS: Okay. Do you look at all kinds of different
2 video cameras, filming different -- have you seen the full gamut?

3 PROSPECTIVE JUROR 088: Yeah. I've seen a good amount.
4 I deal with the lower end stuff now, since I'm out of school, and you
5 know, I don't get to borrow their stuff, but, yeah.

6 MR. BROOKS: Perfect. If you could pass the microphone to
7 Mr. Ono. I was writing down that you were attending college, but
8 subject or career are you interested?

9 PROSPECTIVE JUROR 139: Well, I think bachelor's degree.

10 MR. BROOKS: Any specific field that you kind of like?

11 PROSPECTIVE JUROR 139: Well, I think, you know, graphics
12 or something.

13 MR. BROOKS: Okay. So ideally, what would you like to go
14 into?

15 PROSPECTIVE JUROR 139: Well, not sure yet.

16 MR. BROOKS: Let's say -- so if you end up being chosen as a
17 member of the jury, you'd be one of the younger ones; is that fair?

18 PROSPECTIVE JUROR 139: Sure.

19 MR. BROOKS: Okay. Let's pretend at the end of the
20 evidence it's 11 to 1, it doesn't matter which side, you're just the 1, and
21 so the 11 on the other side. Would you stick to your guns and say, look,
22 this is the way I saw the evidence, or would you just fold?

23 PROSPECTIVE JUROR 139: I think I'll fold.

24 MR. BROOKS: So would you at least make that -- explain
25 one way or the other, though, why they see things like that, and then if

1 you see it like that, also agree?

2 PROSPECTIVE JUROR 139: Yeah.

3 MR. BROOKS: Would you be willing, you know, to voice
4 your opinion, though, in the deliberations, and give back and forth as far
5 as, you know, how you viewed the evidence?

6 PROSPECTIVE JUROR 139: As far as that, I just follow along
7 and see how it goes.

8 MR. BROOKS: So, and look, there's nothing wrong with
9 everyone doing deliberations in any sort of way that they see fit, I just
10 want to know, are you going to -- at some point do you voice your
11 opinion, and explain kind of how you see the evidence, if asked?

12 PROSPECTIVE JUROR 139: I --

13 MR. BROOKS: I should say, not out here in public. It's secret
14 -- like I'm asking you questions and you're answering those, would you
15 be able to answer questions or talk with other members; have a
16 discussion?

17 PROSPECTIVE JUROR 139: Question.

18 MR. BROOKS: Say what?

19 PROSPECTIVE JUROR 139: I question something. Okay.

20 THE COURT: What did you say?

21 PROSPECTIVE JUROR 139: I can't say that, I guess.

22 MR. BROOKS: Yes. I just want to, say you go in the back
23 with other -- will you be able to have a discussion, talk and go back and
24 forth, you know, oh, I saw this, or this person might have said this, with
25 whoever's back there?

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PROSPECTIVE JUROR 139: Yes.

MR. BROOKS: Okay. That's all we want.

If you could pass the microphone to Mr. Brown.

PROSPECTIVE JUROR 155: Thank you.

MR. BROOKS: International relationships. Tell me what prompted that?

PROSPECTIVE JUROR 155: I grew up in the '80s, I graduated in '82, so I was studying the Soviet at the time, and they proved themselves to be reliably unreliable, as usual.

MR. BROOKS: And what did -- how, did you go into that field for a period of time after --

PROSPECTIVE JUROR 155: No.

MR. BROOKS: -- college?

PROSPECTIVE JUROR 155: No.

MR. BROOKS: No.

PROSPECTIVE JUROR 155: No. By the time I graduated they had collapsed.

MR. BROOKS: Oh. So what do you do now, what do you spend the day doing?

PROSPECTIVE JUROR 155: I am a warehouse manager for a trade show general contractor.

MR. BROOKS: Explain, what --

PROSPECTIVE JUROR 155: We build trade shows, conventions.

MR. BROOKS: Okay. Do you think -- tell me what part of that

1 job would make you a good juror? So you're going to see evidence,
2 you're going to hear from people that you've never met before. What
3 part of your job are you going to be able to use as a juror?

4 PROSPECTIVE JUROR 155: Oh, it's just my -- the level of
5 interaction, we do with people from all over the world, all over the
6 country. You have to be able to gather up information, and digest it,
7 come up with a game plan, and come up with a show, even when there's
8 information lacking.

9 MR. BROOKS: Kind of similarly, let's say after the evidence
10 it's 11 to 1, one way or the other, and you're the one, would you be able
11 to kind of voice your opinion fairly?

12 PROSPECTIVE JUROR 155: I would argue my point, yes.
13 And when I say I would, you know, die on that hill, I don't know, it
14 depends.

15 MR. BROOKS: Would you listen to the other --

16 PROSPECTIVE JUROR 155: Oh, absolutely.

17 MR. BROOKS: Can you, you know, if you find that the State
18 has met its burden, can you come back in the room and look to Defense
19 table in the eye and say, guilty?

20 PROSPECTIVE JUROR 155: Yes. I can. Uh-huh.

21 MR. BROOKS: Similarly, on the flip side, can you come back
22 in here if we don't meet the burden, look the State in the eye, and say,
23 you didn't prove it, not guilty?

24 PROSPECTIVE JUROR 155: Yes.

25 MR. BROOKS: And I ask that question, no one is going to

1 have you look us in the eye, it's just a figure of speech.

2 Ms. Whittington, could you pass it to Ms. Wittington.

3 PROSPECTIVE JUROR 179: Hi.

4 MR. BROOKS: Tell me, what would you say being a good
5 juror means?

6 PROSPECTIVE JUROR 179: Oh, I believe, taking in all the
7 evidence, being objective.

8 MR. BROOKS: Say that -- I'm sorry, I missed that?

9 PROSPECTIVE JUROR 139: Being objective.

10 MR. BROOKS: Okay.

11 PROSPECTIVE JUROR 179: I think part of it is having a good
12 rapport with people. I've done -- and I know this sounds silly, I've done
13 nails for 40 years. I have retained people for 38 plus years, and I think
14 rapport is good, and being able to tell -- read people, you know, when
15 they're sitting so close to you, whether they're being honest, whether,
16 you know -- I don't know, I think it's important. So social skills I think are
17 being a good jury, having the knowledge of the law.

18 MR. BROOKS: So with the nails thing, I kind of want to ask
19 you question on this. So I've always kind of believed that if -- you know,
20 I like those chair massages, that are often in nail salons, and so I'm in
21 there --

22 PROSPECTIVE JUROR 179: I don't work there.

23 MR. BROOKS: Okay.

24 PROSPECTIVE JUROR 179: I own my own salon, it's inside
25 of a doctor's office --

1 MR. BROOKS: Oh.

2 PROSPECTIVE JUROR 179: -- it's in the back of its room, and,
3 yeah, that's not me.

4 MR. BROOKS: Okay. So let's pretend though.

5 PROSPECTIVE JUROR 179: Okay.

6 MR. BROOKS: You know, I got -- I bent down in that chair
7 massage, no one can see me, and I listened to conversations, and I've
8 always thought that if people could hear that --

9 PROSPECTIVE JUROR 179: Yeah.

10 MR. BROOKS: -- untarnished conversation, will you have a
11 lot less friends in life? Tell me what kind of things you would look for; in
12 trial you're going to look at evidence, maybe video statements, things
13 that people are going to say, to look for the truth. Just let's be real,
14 everyone sees, you know, they're going to be up there on the stand.
15 You know, we're not talking just unfiltered --

16 PROSPECTIVE JUROR 179: Uh-huh.

17 MR. BROOKS: -- what are you looking for?

18 PROSPECTIVE JUROR 179: If I was running around, looking
19 at somebody to tell me the truth --

20 MR. BROOKS: Yeah.

21 PROSPECTIVE JUROR 179: -- based on the evidence you
22 give me; I would get body language. I look to see -- I'm touching them
23 the whole time, so you can feel if somebody tenses up, that they often
24 perspire, you know, and you're -- and then I can also tell by their
25 language. I hate talking in public, so whether they stutter, or aren't able

1 to express themselves properly -- well, usually I don't have any of those
2 problems, because --

3 MR. BROOKS: Okay. So since COVID the Judge doesn't let
4 you touch the witnesses anymore, that used to, since COVID, we can't.

5 Do you have any familiarity with firearms, I want to ask that
6 question too?

7 PROSPECTIVE JUROR 179: I have my [indiscernible]
8 weapon's permit.

9 MR. BROOKS: Okay. So some familiarity?

10 PROSPECTIVE JUROR 179: Yes.

11 MR. BROOKS: If you could pass the microphone to
12 Mr. Hentges. IT manager, what did that -- what did that mean?

13 PROSPECTIVE JUROR 104: Basically I'm charge of
14 networking, keeping the network up and running, computers, servers,
15 long communications, that's basically what I do all day.

16 MR. BROOKS: What's the most common issue?

17 PROSPECTIVE JUROR 104: User error.

18 MR. BROOKS: Right. And how do you determine that? So
19 someone comes to you with the final step, right --

20 PROSPECTIVE JUROR 104: Uh-huh.

21 MR. BROOKS: -- and they say, hey, this occurred, whatever
22 "this" is, what are you using to backtrack?

23 PROSPECTIVE JUROR 104: Just have them show me what
24 they did to get to that stuff and correct them along the way.

25 MR. BROOKS: So what if they make 7, 8 steps, you know, to

1 get to that user error, but they can only remember 4 or 5, what are you
2 going to use to fill in those missing 2 or 3?

3 PROSPECTIVE JUROR 104: Walk them through it, step-by-
4 step.

5 MR. BROOKS: Do you have enough kind of familiarity or
6 expertise that when you're looking, hey, I know you can't remember this,
7 but this fills in that little gap in the timeline?

8 PROSPECTIVE JUROR 104: Yeah. It's mainly getting people
9 to do it themselves, because if you tell them to do it, they'll forget it as
10 soon as you walk out the door. If you force them to do it a couple of
11 times it sinks in better.

12 MR. BROOKS: I like that, that's -- yeah, that's a little -- that
13 gets a little too real.

14 Judge, at this point I would pass the panel.

15 THE COURT: Okay. Mr. Margolis, whenever you're ready,
16 sir.

17 MR. MARGOLIS: Thank you very much.

18 THE COURT: You're welcome.

19 MR. MARGOLIS: Hello everybody. It's a long day, we're
20 getting near to the end, and then we are at the beginning all of a sudden,
21 there's hope in Mudville, okay.

22 Mr. Young and I are going to probably ask you some
23 questions that are going to make you a little uncomfortable, a little
24 uneasy, a little crazy. And you're going to look at your neighbor, and
25 think, oh my God what are they going to think of me if I say X, Y or Z? I

1 really, really, really want you to say X, Y and Z, okay. And it's not
2 because I want to embarrass anybody, aside from myself, I do that for a
3 living, okay.

4 But I want to get an honest, unvarnished kind of view of
5 your feelings on this, and I realize that public speaking is not something
6 that a lot of people like to do, in fact, most people are more afraid of
7 public speaking, than they are of death, which is kind of funny, because
8 after death it's over, I mean, there's nothing to worry about.

9 Okay. But with public speaking, the idea is, I'm going to
10 speak for ten minutes and I'm going to be living that down for ten years,
11 okay. I understand this so well that when I gave a speech in high school
12 I said, you know, it's better to remain silent and be thought a fool than to
13 speak out and remove all doubt, okay. That's Abraham Lincoln, literally
14 one of the best orators that we have ever seen. And even he recognized
15 speaking in public carries with it a certain amount of risk, and certain
16 amount of [indiscernible], okay.

17 So with that I'm going to try and get you guys to participate,
18 so I don't just keep talking at you. The first thing I want to say is a
19 phrase, and if you've ever heard this phrase I want you to raise your
20 hand, and I'm hoping that the person that I want to raise their hand,
21 raises their hand, because I think they're going to know about this.

22 We talked about gaps, Mr. Brooks talked about gaps, and I
23 said maybe, I don't think they're going to be able to prove this beyond a
24 reasonable doubt. And, Mr. Brown, you talked about the Soviet Union, I
25 think, you were studying the Soviet Union; fair enough? One of my

1 favorite quotes was, "When dealing with the KGB we need to trust, but
2 verify," okay. Has anyone ever heard that phrase, "trust, but verify"? All
3 right. One person. Mr. Brown, you're heard it, so I'm going to pick on
4 you.

5 PROSPECTIVE JUROR 155: Not to worry.

6 MR. MARGOLIS: What does this mean? What does this
7 mean, "trust but verify"?

8 PROSPECTIVE JUROR 155: It means it's just not enough to
9 take it at face value, or spoken value, you must verify the validity.

10 MR. MARGOLIS: And, you know, kind of implied in that is
11 that people aren't always honest, correct?

12 PROSPECTIVE JUROR 155: Correct.

13 MR. MARGOLIS: Okay. And people kind of shade the truth,
14 fair to say?

15 PROSPECTIVE JUROR 155: Very.

16 MR. MARGOLIS: Okay. Let me give you another statement,
17 okay. Attempt murder, okay? Battery with a deadly weapon with
18 substantial bodily harm, this is not petty theft, right. This is not stealing
19 a Starburst from my -- from the K-Mart, on my way home from middle
20 school, right?

21 Who will tell me kind of what they think when they hear
22 those charges? First word association kind of thing. Mr. Ono, what do
23 you think when hear "attempt murder"?

24 PROSPECTIVE JUROR 139: Guilty. I don't know.

25 MR. MARGOLIS: No, that's as perfect man, that is perfect. I

1 mean, I couldn't have -- I couldn't have scripted better myself, because
2 it's honest, I appreciate that. Okay.

3 Most of us, probably in this box and I would include myself
4 in this group, I don't know anybody that has been charged with that kind
5 of crime. Okay. Not in my personal life, okay. So that was a perfectly
6 honest and open reaction and I appreciate it, and honestly, I think more
7 of you probably feel that way as well.

8 And what's the first thing that we think of when we see or
9 hear "defense attorney," Ms. Wittington?

10 PROSPECTIVE JUROR 179: With all due respect, I don't think
11 about it. A defense attorney, I don't -- it's not in my, honestly, my
12 wheelhouse. I don't -- this is my first jury gig --

13 MR. MARGOLIS: Not that's --

14 PROSPECTIVE JUROR 179: -- it's all really interesting to me,
15 I'm enjoying it. Defense attorney, I would pick one wisely. I don't think --
16 listen, I see you guys on TV, and that's my -- honestly my --

17 MR. MARGOLIS: That's fair.

18 PROSPECTIVE JUROR 179: -- extent of a defense attorney.

19 MR. MARGOLIS: Okay.

20 Okay. Let's see, let's talk about witness and identifications a
21 little bit. Okay. And I'm going to phrase this question as who might find
22 it difficult, okay, because I'm going to assume that everyone here, all of
23 you in this room want to be very impartial, and you certainly don't want
24 to stand up and say, I'm the biggest bigot in town, pick me, okay?

25 So let's say there's an eyewitness identification and there's

1 only one eyewitness, okay? No other witnesses, no DNA, no forensics
2 like we see on Law and Order and SVU. Who would find it difficult to
3 return a guilty verdict on these two very serious offenses, with one
4 eyewitness and no forensics? Anyone? Perfect.

5 THE COURT: Oh, there's one -- I think there's one hand that
6 was raised, Mr. Margolis. Oh, did you see it? I thought you didn't see it.

7 MR. MARGOLIS: Yeah. I did, I did.

8 THE COURT: Thank you.

9 MR. MARGOLIS: Okay. And I'm trying to remember
10 everybody's name. Mr. Taylor?

11 PROSPECTIVE JUROR 084: Yes.

12 MR. MARGOLIS: Tell me a little bit about that? I'm a defense
13 attorney, so it's pretty clear I'm going to be in that camp, but I want to
14 know why you feel that that would be difficult?

15 PROSPECTIVE JUROR 084: Because people are mistaken,
16 often. I see it my job, I see it in everyday life. If you want me -- you care
17 to elaborate, I can elaborate, but --

18 MR. MARGOLIS: Please elaborate. I mean, and mistaken,
19 not through any ill will or malice, right?

20 PROSPECTIVE JUROR 084: Just --

21 MR. MARGOLIS: No.

22 PROSPECTIVE JUROR 084: Just, I mean, people see
23 something, and they've been wrong, I've been wrong --

24 MR. MARGOLIS: Sure.

25 PROSPECTIVE JUROR 084: -- quite a bit, so it's kind of -- and

1 I personally believe that one eyewitness is not -- does not meet the
2 burden of some sort of proof, although we haven't heard that definition
3 yet.

4 MR. MARGOLIS: Sure, true. Oh, we will. We will.

5 Ms. Diaz, do you agree with what Mr. Rogers [sic] said?

6 PROSPECTIVE JUROR 198: I do.

7 MR. MARGOLIS: Please tell me a little bit about that, why
8 you agree with my difficulty statement?

9 PROSPECTIVE JUROR 198: Well, like you said, people are
10 often mistaken, and like you said, not through malice or ill will, we just
11 have a tendency to sometimes forget details because we focus on other
12 details. So I think to have just one eyewitness, you only have one form
13 of the story. I think it would be helpful to have more eyewitnesses, if
14 possible, to corroborate.

15 MR. MARGOLIS: Corroboration, I'm glad you said that word.
16 How many people think it would be difficult to return a guilty verdict,
17 without evidence corroborating each other? A show of hands?

18 Ms. Nguyen? Why -- how are you doing? Why is it
19 important that evidence corroborate one another, if we're together?

20 PROSPECTIVE JUROR 013: Because, like going back to the
21 memory thing, there's actually science that people will make up their
22 own memories based on biases, or like we can feed people lines and
23 memories, and stuff, and they'll make it up to make -- to support it for
24 themselves, and they'll complete believe it.

25 It kind of goes back to like 911 research, stuff like that.

1 People will, say that they saw what happened, but they weren't
2 anywhere near where it happened before, so it's like kind of important to
3 like have different things, or even just have video evidence on top of it.
4 Because even then like people can hear something, and then match their
5 corroboration. So I guess it's like -- it depends. So there's -- there
6 should be hard evidence on top of it too.

7 MR. MARGOLIS: Thank you. Anybody else agree with what
8 Ms. Nguyen said?

9 I don't want to mispronounce it, Callis? If you would, please,
10 yes.

11 PROSPECTIVE JUROR 133: Yes. I definitely agree. I think it
12 all comes down to a logical analysis. So if we have one testimony
13 saying one thing, a video that says something else, and then like a
14 statement to the police that says something totally different, it would like
15 fail to provide a very logical story about what happened, and it would
16 create a lot of hesitancy to vote guilty on something, when there's no
17 clear vision or story behind what's -- what happened these years ago.
18 So --

19 MR. MARGOLIS: It's like missing details, right?

20 PROSPECTIVE JUROR 133: Exactly.

21 MR. MARGOLIS: Okay. And, you know, I guess when we're
22 missing details, oftentimes we try to fill in those gaps, right? Do you
23 think that police sometimes try to fill in the gaps, when they don't have
24 evidence that fits?

25 PROSPECTIVE JUROR 133: I think anyone who's involved in

1 the case will be trying to fill in gaps, whether it's the victim, or the
2 person who committed the crime, or even me as a juror. Like we're
3 going to try to be looking for ways to piece all the evidence together.
4 And I mean, as the job of the jury, you're supposed to take a step back
5 and not try to do the piecing, and let it be pieced in front of you in
6 different ways, because it's not your job to be putting together the story,
7 it has to be presented to you.

8 And I think everyone involved in this case will at some point
9 be trying to put pieces together or offering their subjective ideas behind
10 the case. So I mean, I just think it's hard to really draw a line about
11 who's piecing too much, or who's piecing too little, so --

12 MR. MARGOLIS: Because we're going to do what we need to
13 do to make it fit, right? We're going to put a square peg in a round hole,
14 if that's what we have to do to make the puzzle fit.

15 A couple of more questions and I'll try and be as brief as I
16 can, but I have to talk about race a little bit. I want to talk about racial
17 prejudice. Most of the initial descriptions of who did this crime, of who
18 hit Mr. Wills? A black guy, a black guy did it, okay.

19 Show of hands, how many of you think that police operate a
20 little bit differently when it's a black defendant and a white victim,
21 vis-a-vis a white defendant and a black victim? No wrong answer, okay,
22 but show of hands if you think that's happening? Okay.

23 THE COURT: Sorry, Mr. Margolis, that happened, or that it's
24 always? Did you say happened, or that it's always the case?

25 MR. MARGOLIS: Oh no, that it happens, not that it's always

1 the case.

2 THE COURT: That it happens, okay.

3 MR. MARGOLIS: Just that it happens, right?

4 THE COURT: That it happens, okay.

5 MR. MARGOLIS: All right. Good.

6 Ms. Baird, please. Tell me why you think this happens?

7 PROSPECTIVE JUROR 056: Why do I think it happens?

8 MR. MARGOLIS: Yeah. Why do you think it happens?

9 PROSPECTIVE JUROR 056: I mean, I think it happens,
10 because, you know, as a whole people are not perfect, and we've fallen
11 into stereotypes, and you know, profiling, which was mentioned earlier,
12 and you know, everyone, you know is entitled to their own view on that,
13 but, you know, I've had my own experiences, witnessing friends who
14 have been profiled wrongly, and it happens.

15 As for why it happens, I mean -- I don't relate to that, so I
16 don't know that I could say for my -- I don't understand it --

17 MR. MARGOLIS: Well, let me --

18 PROSPECTIVE JUROR 056: -- from my purview.

19 MR. MARGOLIS: Let me ask you one follow-up. Do you
20 think necessarily that when it happens it's a bi-product of overt, explicit
21 bias, or could it sometimes be the result of a lack of familiarity, a lack of
22 understanding?

23 PROSPECTIVE JUROR 056: I think people function from their
24 belief systems.

25 MR. MARGOLIS: Okay.

1 PROSPECTIVE JUROR 056: So wherever they're at, they're
2 taking that with them.

3 MR. MARGOLIS: Fair to say we have a certain amount of
4 control over what we let in and what we don't right?

5 PROSPECTIVE JUROR 056: Yeah. We have a choice.

6 MR. MARGOLIS: Okay. Freedom of association and all that
7 good stuff. I'm going to pick on somebody else now. Thank you, Ms.
8 Baird.

9 How many people have parents like my father, that had, still
10 has to a lesser agree, this annoying habit of making racially insensitive
11 comments, and not knowing about it? Please tell me a little bit about
12 that. And remind me your name, I'm sorry?

13 PROSPECTIVE JUROR 180: Richard Wright.

14 MR. MARGOLIS: Richard Wright. Thank you, Mr. Wright.

15 PROSPECTIVE JUROR 180: Do you want just like an example
16 of my mom being kind of racist?

17 MR. MARGOLIS: You know what, to take the heat off you I'll
18 give you an example --

19 PROSPECTIVE JUROR 180: Okay.

20 MR. MARGOLIS: -- it's one that has puzzled me for a good 20
21 years, because it took me 20 years to figure it out. All my life if I did
22 something really great, my dad would say, without the slightest hint of
23 shame, "That's mighty white of you." Okay. Anybody heard that phrase,
24 it's mighty white of you? If you haven't, I'm just dating myself, and I'm
25 older than you and congratulations.

1 Okay. But it took me a long time to even figure out that that
2 was racist, right. It's not a slur, it's not a pejorative name. It didn't
3 immediately occur to me, kind of like it doesn't immediately occur to us
4 when we see black death, or black plague, right? So how does it make
5 you feel when she says something of that ilk?

6 PROSPECTIVE JUROR 180: I mean, I kind of immediately
7 want to correct her and tell her she's -- I mean, being wrong, I guess,
8 essentially, just generalizing is usually pretty not cool to do. But I mean,
9 it's -- I know by now it's my mom, I'm not going to change her mind,
10 so --

11 MR. MARGOLIS: And even that being said though, Mr.
12 Wright, do you think your mom's racist?

13 PROSPECTIVE JUROR 180: Well, to an extent, yeah. She not
14 like --

15 MR. MARGOLIS: Not pitch fork and hood?

16 PROSPECTIVE JUROR 180: Yeah, sorry. There you go.

17 MR. MARGOLIS: And I think that discussion of racism is
18 important though --

19 PROSPECTIVE JUROR 180: Yes.

20 MR. MARGOLIS: -- because let's face it, most of us don't
21 know any pitch fork and hood. Okay. We don't see pitch fork and hood
22 anymore, I don't think, okay. So how many of you, a show of hands,
23 have seen the Book of Mormon? It was my [indiscernible]. There's
24 song in the Book of Mormon, I think it says, "everybody is a little bit
25 racist," okay. I kind of love that song, okay, because I think it speaks the

1 truth that we don't want to talk about it, okay. How many of you agree,
2 you don't have to, everyone's a little bit racist?

3 Please raise your hands, I know you feel it. I feel it. I know
4 I'm a little bit racist, okay. I mean, my wife is black, I'm a little bit racist,
5 okay. I'm just constantly made aware of the errors in my thinking, right.
6 The one thing you'll see consistently in the police reports regarding the
7 initial investigation in this case, that a black guy did it, a black guy did it,
8 a black guy did it, a black guy it. And you're going to see a lot of video,
9 of a black wandering around, okay.

10 And I think we touched on the fact that, you know, some of
11 us, maybe not through any fault of our own, Mr. Wright, we picked up
12 these attitudes in these conditions, okay. We talked about justice, okay,
13 and about the criminal justice system being effective, okay. I've often
14 thought that there's black justice, white justice, rich justice, poor justice.
15 Anybody know what I mean by that?

16 Let's see, Ms. Shanks, what do you think I mean when I say,
17 "rich justice, poor justice, black justice, white justice"?

18 PROSPECTIVE JUROR 007: I'm going to need an example, I
19 can't -- I don't follow you.

20 MR. MARGOLIS: Let's see. I'm originally from Los Angeles,
21 okay, and I remember very vividly being at the Burbank Airport, okay,
22 and stopping in the fire lane to pick somebody up, like everybody does,
23 at every airport, right? And I stop, and the guy kind of looks at me, and
24 hollers at me, and says, "Hey, fire lane, you've got to move." He turns
25 around, and goes back to doing what he's doing, okay.

1 The next time I go to Burbank Airport I'm with my body, he's
2 African American, and we're going to pick up the same guy actually, we
3 were dropping him off the time before, now we're picking him up. I go
4 in to retrieve my friend, while my African American friend stays in my
5 truck in the fire lane. A period of not more than three to five minutes
6 ensues, I come back out, and my friend's spread eagle on the front of my
7 truck, okay.

8 He and I, in these two examples, committed the same
9 offense, the same transgression, okay. We were parked in the fire lane,
10 we weren't supposed to be, you know, but it was treated very, very
11 different, okay, and that stuck with me to this day. Do you think that
12 there is different justice, based on whether or not you're black or white,
13 or rich or poor?

14 PROSPECTIVE JUROR 007: To a certain extent.

15 MR. MARGOLIS: Elaborate, if you will, how do you think?

16 PROSPECTIVE JUROR 007: So I say for instance how people
17 where we -- depending upon where you live, if you live in a more rough
18 neighborhood, you see more police, they're more stern, as to where if
19 you're in a more upper class/middle class, so they may not be as stern,
20 they give you more warning. They may give you a warning, and so then
21 them just coming off and just laying it down on you.

22 MR. MARGOLIS: Relatedly, are you familiar with the concept
23 of "Karen"?

24 PROSPECTIVE JUROR 007: Yes.

25 MR. MARGOLIS: Okay. You may or may not know where

1 I'm going with this one, but I enjoy this kind of example, okay? Only the
2 Karens of the world will get pulled over for a speeding ticket, and literally
3 tear into the officer, agree?

4 PROSPECTIVE JUROR 007: Yes.

5 MR. MARGOLIS: Okay. Some of us, we just can't do that, it's
6 not going to go well, okay. And I think of that as kind of an illustrative
7 example, you know, of the rich justice, poor justice, black justice, white
8 justice; is that fair?

9 PROSPECTIVE JUROR 007: No, it's not.

10 MR. MARGOLIS: Is there anything we could do about it?

11 PROSPECTIVE JUROR 007: You can make yourself be the
12 example. If you show that that is not right, and you strongly believe it,
13 then why don't you sit there and make it happen, if you feel that you can
14 do it yourself?

15 MR. MARGOLIS: Well, I mean, I'll give you one example of
16 why I might struggle with it. When I go home to Henderson tonight, I'm
17 probably not going to encounter that many police. So unless if I move to
18 that neighborhood that we're talking about, that theoretical
19 neighborhood, right, I might not ever get the opportunity.

20 I think it's about experience, I think it's about education, I
21 think it's about familiarity, okay. Anybody familiar with the University of
22 Southern California? Anybody know where it's located in Los Angeles?

23 UNIDENTIFIED SPEAKER: In the heart.

24 MR. MARGOLIS: The heart, but what part exactly, is it a
25 good part of town, bad part of town.

1 UNIDENTIFIED SPEAKER: A bad part of town.

2 MR. MARGOLIS: Bad part of town. When I went to USC
3 everyone I talked to told me, "Oh my God, you're going to USC." A
4 couple of people asked if I'm going to get a gun, and this is in the
5 aftermath of the LA riots, okay. Despite my best efforts I developed
6 some of these attitudes, where I was -- I'm concerned, you know.

7 Come up to a stoplight, take a road in Eldorado. A couple big
8 black fellows, looked like Mr. Young, they're coming to the crosswalk. I
9 look at my doors and I make sure they're locked. I feel bad about it, but I
10 do it. What do you think that means, Ms. Lee, why do I do it, what does
11 it mean?

12 PROSPECTIVE JUROR 088: I think that, unfortunately, due to
13 where you were living at that time, or what you had seen, it changed the
14 way that you perceived people.

15 MR. MARGOLIS: When we -- and answer for yourself or
16 people you know, when you experience life and it challenges those
17 beliefs, do you think as a general rule we rewrite our beliefs, based on
18 the new evidence?

19 PROSPECTIVE JUROR 088: I think honestly, it's just
20 situational.

21 MR. MARGOLIS: Okay. A fair answer. Like the older the
22 dog, the less likely they're going to learn a new trick, kind of a thing?

23 PROSPECTIVE JUROR 088: I think it's similar to what he had
24 mentioned around his mom, that she's at a certain age, and she believes
25 what she believes, so he can't necessarily change the way she sees the

1 world.

2 MR. MARGOLIS: Do you think she really believes it, in a
3 pejorative way, or do you think it's just a manner of speaking, almost, for
4 some folks?

5 PROSPECTIVE JUROR 088: I don't know.

6 MR. MARGOLIS: Okay. Fair enough.

7 I kind of want to ask a question of the front row here, and a
8 little more specific question, if you'd be willing to share your personal
9 experience with me, I'd be forever grateful. Let's start, actually, with --
10 I'm going to try, Ms. Sukasearm?

11 PROSPECTIVE JUROR 205: Pretty much.

12 MR. MARGOLIS: Pretty much, I'll take it.

13 Most memorable experience with a black person?

14 PROSPECTIVE JUROR 205: My best friend is half black.

15 MR. MARGOLIS: Bullia [sic], okay. All right. I was hoping I'd
16 have one like that. Where did you meet your best friend?

17 PROSPECTIVE JUROR 205: In junior high.

18 MR. MARGOLIS: Junior high, me too. Any awkward
19 occurrences that arose in the beginning of the friendship, due to the lack
20 of familiarity?

21 PROSPECTIVE JUROR 205: Not really. It was a small school.

22 MR. MARGOLIS: That's awesome that you were younger
23 than I am. So that's awesome. I'm glad it didn't cause any. The first
24 time he or she came over to your house was you family cool?

25 PROSPECTIVE JUROR 205: Yeah.

1 MR. MARGOLIS: Was that the first time a black person had
2 been in the house?

3 PROSPECTIVE JUROR 205: No. My dad's friends come over
4 too.

5 MR. MARGOLIS: Okay. How many friends would you say
6 your dad had that were black, growing up?

7 PROSPECTIVE JUROR 205: I'm not sure. He's a bartender,
8 so we have various people come over.

9 MR. MARGOLIS: Okay. A bartender is pretty social
10 profession people; that's fair. Okay, cool. Thank you. Ms. Diaz, how
11 about you? Most memorable experience with an African American?

12 PROSPECTIVE JUROR 198: I don't know. I grew up with all
13 different kinds of races of friends. I served in the military, so I was
14 surrounded by all different kinds of racists. I don't -- I don't really have
15 any memorable, good or bad, with black people.

16 MR. MARGOLIS: Do you think you've had more or less
17 contact with African Americans, than the average person, based on your
18 career, and where's taken you?

19 PROSPECTIVE JUROR 205: I would say average, I mean it's
20 Vegas, I would say average.

21 MR. MARGOLIS: Okay. Fair enough. Mr. Cupo?

22 PROSPECTIVE JUROR 188: My -- I dated someone who was
23 black.

24 MR. MARGOLIS: How long did it last?

25 PROSPECTIVE JUROR 188: Only about three months.

1 MR. MARGOLIS: Did any -- I mean, I hope that it wasn't
2 because of anybody's difficulty dealing with it, but did anybody say
3 anything, do anything, look at you sideways, ever?

4 PROSPECTIVE JUROR 188: No. I didn't get much. I was
5 worried about it going home, because in the past my mom had once
6 told me that she'd be, I guess surprised, if my sister or I brought home a
7 black significant other, but it was -- it was all good in -- in my circles.

8 MR. MARGOLIS: I mean, I'm really glad to hear that, because
9 like you, when I was courting my wife, I had the same concerns. I, you
10 know, I didn't know. My dad was the mighty whitey again, so I didn't
11 entirely know how he was going to react. Thank you, Mr. Cupo.

12 Ms. Smith?

13 PROSPECTIVE JUROR 247: Yes. I don't have any certain
14 memories, but my husband and I have a friend that is black, and he's a
15 very great guy, we've done a lot of things over the years. We haven't
16 seen him here in a long time now, but he was a great person, fun to be
17 around, fun to hang out with.

18 My husband does photography, and we've had several
19 young girls that he's taken pictures of, that are black, and very pleasant
20 little girls. Always gotten along with them, never had a problem with
21 any of them.

22 MR. MARGOLIS: That's awesome.

23 PROSPECTIVE JUROR 247: Okay.

24 MR. MARGOLIS: Great. Thank you. Mr. Jeung?

25 PROSPECTIVE JUROR 245: Yeah. Actually, my main study

1 party back in college was African American.

2 MR. MARGOLIS: Yeah. I remember you said that. Did you
3 say that? No, no, no.

4 PROSPECTIVE JUROR 245: It's the first I'm saying it.

5 MR. MARGOLIS: My bad.

6 PROSPECTIVE JUROR 245: But yeah, he was my main -- he
7 was my main study partner. We went -- we did college we were study
8 buddies were Japanese, funny enough, and went to Japan together and
9 studied, so --

10 MR. MARGOLIS: You studied in Japan together?

11 PROSPECTIVE JUROR 245: Yeah.

12 MR. MARGOLIS: That's pretty good.

13 PROSPECTIVE JUROR 245: Yeah. Loved my parents, I mean,
14 a super cool guy.

15 MR. MARGOLIS: Did having that close relationship with him
16 change any of your opinions there, or maybe unspoken stereotypical
17 assumptions about African Americans?

18 PROSPECTIVE JUROR 245: I think I got [indiscernible] in San
19 Francisco.

20 MR. MARGOLIS: You did --

21 PROSPECTIVE JUROR 245: So, I mean, I grew up very, very
22 culturally diverse. The fact that my parents are younger, you know, in
23 Chinatown, they, you know, they had a lot of African American friends,
24 because that's -- you know, in those days, like the '40s and '50s, that's
25 the only other community that they could sell to, and that's the only

1 community that really talked to them a lot. So that's so ironic because --

2 PROSPECTIVE JUROR 245: Yeah. I grew up with probably
3 more than -- I mean, I can't speak for everyone here. But pretty -- pretty
4 diverse.

5 MR. MARGOLIS: I mean, I'm from Southern California. And
6 let's just say Southern California circa USC around that time, the
7 relationships between many Asian American groups and specifically,
8 South Korean Americans --

9 PROSPECTIVE JUROR 245: Uh-huh.

10 MR. MARGOLIS: -- and blacks were not very good. So I'm --
11 I'm happy to hear that.

12 Let's see. Quick question. Mr. Brooks touched on it a little
13 bit. And Ms. Moon, you want to volunteer? I'm going to call on you.
14 What are -- what are some reasons why a person like Mr. Young, a guy
15 who is sitting here, you know, on trial for some pretty serious things who
16 could go away for a long time, why -- why would he not take the stand
17 and testify in his defense?

18 PROSPECTIVE JUROR 078: I think there's a couple reasons.
19 One, maybe the evidence that you bring to the table puts forth he
20 doesn't even have to testify.

21 MR. MARGOLIS: Okay.

22 PROSPECTIVE JUROR 078: I think that's one scenario.

23 MR. MARGOLIS: Okay.

24 PROSPECTIVE JUROR 078: Vice versa, the State has the
25 evidence that maybe you're not comfortable with him testifying. I think

1 that goes both directions. I think those are the two biggest ones that I
2 can think of. I think there's probably another one, that maybe he's a --
3 not -- he's just not a strong character witness for himself.

4 MR. MARGOLIS: Not a strong character witness for himself.
5 That's actually a really sage point. There's been some talk about drugs.
6 There's been some talk about homelessness. Okay. Mr. Will was at
7 various periods of time, it appeared, homeless. Mr. Young at various
8 periods of time appears homeless. Okay. And with that, uncertain
9 challenges to survival. Would you agree?

10 PROSPECTIVE JUROR 078: Sure.

11 MR. MARGOLIS: I'll try and wrap up here very quickly. I
12 appreciate all of your attention. Many of the State's witnesses will be
13 law enforcement officers or will be affiliated with law enforcement. Can
14 anybody think of a reason why a law enforcement officer might shade a
15 piece of evidence or write a certain report a certain way?

16 PROSPECTIVE JUROR 078: Maybe his job's on the line.

17 MR. MARGOLIS: Job's on the line. Okay. That's a good one.
18 Yes?

19 PROSPECTIVE JUROR 133: When you said like writing a
20 certain way, I think it also comes back to like a level of education and
21 how they personally subjectively see the case when they're writing it.
22 And I mean, it all comes back to like how they write. And that comes
23 back down to education and their experience in the field, as well. So like
24 more experienced people will be more articulate or better at phrasing
25 what they saw in different ways. So --

1 MR. MARGOLIS: Thank you. Thank you.

2 Ms. Diaz, I wanted to ask you a follow-up question that's
3 related to this actually based on that -- a battery, right? And you
4 basically tried to like break it up and ended up getting charged. Am I --
5 am I surmising that?

6 PROSPECTIVE JUROR 198: Correct.

7 MR. MARGOLIS: Okay. Did you feel like anyone wanted to
8 listen to you?

9 PROSPECTIVE JUROR 198: No.

10 MR. MARGOLIS: Okay. And why do you think that was if
11 you were speculating? I know I'm asking for you to speculate here.

12 PROSPECTIVE JUROR 198: Because I was speaking directly
13 to the police officer, and he kept doing this to me and speaking to the
14 security officer.

15 MR. MARGOLIS: Okay. And do you think he thought you
16 were inebriated?

17 PROSPECTIVE JUROR 198: Yes. He --

18 MR. MARGOLIS: Were you?

19 PROSPECTIVE JUROR 198: -- he asked me a few times. No.

20 MR. MARGOLIS: And you told him no?

21 PROSPECTIVE JUROR 198: I had actually just gotten down
22 there. I had just met up with my family. And then it happened.

23 MR. MARGOLIS: Why do you think he didn't believe you?

24 PROSPECTIVE JUROR 198: Probably because the rest of
25 them were drunk.

1 MR. MARGOLIS: Okay.

2 PROSPECTIVE JUROR 198: He came up on the situation not
3 too -- I mean, like, it all happened really quickly. So I wasn't there that
4 long.

5 MR. MARGOLIS: Uh-huh.

6 PROSPECTIVE JUROR 198: And then he shows up. And all
7 he sees is they're drunk.

8 MR. MARGOLIS: And then you ended up taking some kind of
9 deal, right, isn't that what you said?

10 PROSPECTIVE JUROR 198: Yeah.

11 MR. MARGOLIS: Okay.

12 PROSPECTIVE JUROR 198: They knocked it down to -- I don't
13 know what's below battery. But it was a misdemeanor instead.

14 MR. MARGOLIS: Did you feel you were guilty of anything?

15 PROSPECTIVE JUROR 198: I didn't do anything.

16 MR. MARGOLIS: That's a no, right?

17 PROSPECTIVE JUROR 198: Yeah.

18 MR. MARGOLIS: So --

19 PROSPECTIVE JUROR 198: I tried to pull him off.

20 MR. MARGOLIS: -- why'd you take the deal?

21 PROSPECTIVE JUROR 198: Because my attorney said that if I
22 didn't take the deal, it -- they were going to take me to trial because of
23 the statement and because of the police officer's report.

24 MR. MARGOLIS: Okay. So you thought that the police
25 officer's testimony at trial would be believed more than yours if it went

1 there?

2 PROSPECTIVE JUROR 198: Correct. Considering the fact
3 that they also had the security officer's report.

4 MR. MARGOLIS: Okay. Having had that experience, do you
5 think that the average hearer gives more weight to police officer
6 testimony?

7 Show of hands, who --

8 PROSPECTIVE JUROR 198: No.

9 MR. MARGOLIS: -- thinks that if an officer testifies -- and I'll
10 let you speak directly to it -- we're more inclined to believe them?

11 Mr. Brown, you do?

12 Nobody else does? That's awesome. You're all great
13 Defense witnesses.

14 PROSPECTIVE JUROR 155: Oh, I'm sorry.

15 MR. MARGOLIS: Thank you.

16 Why? Why do they listen more?

17 PROSPECTIVE JUROR 198: What's that?

18 MR. MARGOLIS: Why do they listen more? Why are they
19 more inclined to believe maybe?

20 PROSPECTIVE JUROR 198: Oh, I don't think they're more
21 inclined to believe.

22 MR. MARGOLIS: You don't?

23 PROSPECTIVE JUROR 198: No.

24 MR. MARGOLIS: You don't?

25 PROSPECTIVE JUROR 198: I don't. I think especially

1 nowadays, the way things have gone, I think society does have a hard
2 time trusting law enforcement. And I don't think that's fair either. But
3 everything is blasted on television and on social media. So people do
4 side with what they read and what they see, especially when their
5 friends are following that same idea.

6 MR. MARGOLIS: It's a hard job. Definitely a hard job.

7 PROSPECTIVE JUROR 198: I agree.

8 MR. MARGOLIS: Okay. There's a couple people I have not
9 spoken to yet.

10 Mr. Jenetto?

11 PROSPECTIVE JUROR 237: Yes, sir.

12 MR. MARGOLIS: Am I pronouncing that correctly? I hope I
13 am.

14 PROSPECTIVE JUROR 237: Yes. Perfect.

15 MR. MARGOLIS: Have you ever felt treated differently
16 because of the way you look or -- or pigeonholed in a particular way
17 because of the way you look?

18 PROSPECTIVE JUROR 237: Yeah.

19 MR. MARGOLIS: Would you talk to me a little bit about that?
20 Tell me about it.

21 PROSPECTIVE JUROR 237: Yeah. I've got some tattoos. So
22 I feel like people have looked at me differently for having tattoos and,
23 you know, treated me differently.

24 MR. MARGOLIS: Like you're some kind of party animal?

25 PROSPECTIVE JUROR 237: Yeah. Party animal. Who

1 knows. They're the ones missing the party.

2 MR. MARGOLIS: Amen. So appearances can be deceiving,
3 right?

4 PROSPECTIVE JUROR 237: Absolutely.

5 MR. MARGOLIS: And -- and this is why we have to dig a little
6 bit deeper. Okay. We have to -- we can trust. But we probably ought to
7 verify. Okay. If -- if you were sitting at -- at our table, okay, and -- and --
8 and you were Mr. Young, would you want you to be his juror -- your
9 juror?

10 PROSPECTIVE JUROR 237: Absolutely.

11 MR. MARGOLIS: Okay. Why?

12 PROSPECTIVE JUROR 237: Because I'm fair, unbiased, you
13 know. I look at all the evidence thoroughly. And you know, just try to
14 make the best decision as if one of my family members were in his
15 position.

16 MR. MARGOLIS: So you would actually go that far? You
17 would put your -- your loved one in his seat and -- and keep that top of
18 mind while deliberating?

19 PROSPECTIVE JUROR 237: Yeah, because at any moment,
20 any of us could be in his chair. So I mean -- and that's what's great
21 about this system and, you know, the way it works. And so you want to
22 treat everybody the same way as if you were in that seat.

23 MR. MARGOLIS: Thank you very much, Mr. Jennetto.

24 Mr. Paoni, is that how I pronounce it?

25 PROSPECTIVE JUROR 009: All right.

1 MR. MARGOLIS: Please tell me if I -- I'll work at it. I'll get it.

2 PROSPECTIVE JUROR 009: It's Paoni.

3 MR. MARGOLIS: How about you? Do you ever feel judged,
4 pigeonholed based on your appearance?

5 PROSPECTIVE JUROR 009: Well, I'm gay. So I'm judged
6 every day. So --

7 MR. MARGOLIS: I'm guessing that people aren't chasing you
8 around hitting you, right? So what are the forms of judgment that you
9 endure? I'm sure they're a little more subtle.

10 PROSPECTIVE JUROR 009: Sometimes they are and
11 sometimes they're not. Like when I'm out with my husband and the kids,
12 we get looks. And then we get that's the -- oh, the boys are out for
13 dinner. It's not. It's -- we're family. Some people don't like the fact that
14 we have kids, so they treat us differently. We can't hold hands when we
15 walk down the streets. You know, if people see us kiss each other, it's
16 not allowed, or you get comments and looks.

17 MR. MARGOLIS: You mean they actually say things to you?

18 PROSPECTIVE JUROR 009: Yeah. They'll actually call us the
19 eff word. They'll actually, oh, that's not -- oh, that's disgusting. So yeah,
20 we're always aware of where we are and what we do where we are.

21 MR. MARGOLIS: I mean, I'm going to ask -- and I hope the
22 answer is yes -- do you ever get a little bit of the opposite of that? A little
23 bit of the positive?

24 PROSPECTIVE JUROR 009: Nowadays, yeah. Things are
25 starting to turn around for us.

1 MR. MARGOLIS: Okay.

2 PROSPECTIVE JUROR 009: But I'm -- you know, I grew up
3 when it wasn't. Like, you know, we went to a bar, you know, we'd have
4 to make sure no one's driving around with a bat. You know, so
5 nowadays -- you know, nowadays, things are coming around for us. But
6 you know, still. We still are more aware of where we are unless we're,
7 like, in West Hollywood or, you know, somewhere where we feel more
8 comfortable --

9 MR. MARGOLIS: Right. Castro or --

10 PROSPECTIVE JUROR 009: -- as a community.

11 MR. MARGOLIS: -- something like that?

12 PROSPECTIVE JUROR 009: Yeah.

13 MR. MARGOLIS: Right. Yeah.

14 PROSPECTIVE JUROR 009: But even there, we still -- you still
15 have to be aware.

16 MR. MARGOLIS: Head off to swivel.

17 PROSPECTIVE JUROR 009: Yeah.

18 MR. MARGOLIS: Do you feel -- do you feel that the minority
19 group that you are a part of colors your every decision?

20 PROSPECTIVE JUROR 009: No. No, because I --

21 MR. MARGOLIS: Okay.

22 PROSPECTIVE JUROR 009: It's not -- and it's not how we
23 treat -- it's not how we raise our kids. We don't raise our kids that way.
24 And I don't believe that. I believe, you know, we raise our kids to think of
25 everyone as equal, regardless of what they say to them. And we raise

1 our kids to not see gender and just, you know, a person's a person. And
2 whether what they say to you, then pay them no mind. And that's how
3 we raise our kids, and that's how we believe.

4 MR. MARGOLIS: Thank you very much for sharing. I
5 appreciate it.

6 One more question for the panel, and then I think I'm going
7 to try and wrap it up. Let's see. Any Law and Order or CSI fans out
8 there? Okay. What's different about DNA, fingerprints than eyewitness
9 testimony? What makes it more ideally, reliable or dependable?

10 Mr. Brown?

11 PROSPECTIVE JUROR 155: It's a scientific basis.

12 MR. MARGOLIS: Okay.

13 PROSPECTIVE JUROR 155: Whereas your -- thank you. It's
14 scientific basis. It's kind of hard to lie on a DNA test as opposed to -- or
15 shade the truth.

16 MR. MARGOLIS: And I think a couple of us on the panel
17 have talked about human error being -- the data, the internet technology,
18 human error is the biggest cause of these mistakes?

19 PROSPECTIVE JUROR 155: Correct.

20 MR. MARGOLIS: Okay. Around my office -- it's a criminal
21 defense office, obviously. We like to say, there's no justice, there's just
22 us. Okay. There's just us. And Mr. Young's life is in your hands. Mr.
23 Young's liberty is in your hands. So it's very important to me that we
24 have a fully engaged jury and one that is ready and willing to hear out all
25 of the evidence until the end. And thank you very much, very kindly for

1 your attention.

2 Mr. Brown, I thank you for being my book end and finishing.

3 Thanks very much.

4 THE COURT: Mr. Margolis, do you pass at this point?

5 MR. MARGOLIS: I pass.

6 THE COURT: All right. Thank you.

7 MR. BROOKS: Judge, could we approach on something?

8 THE COURT: Yeah.

9 [Sidebar begins at 3:20 p.m.]

10 MR. BROOKS: Judge, I really didn't want to bring this -- I
11 really didn't want to bring this up because I wanted to keep Ms. Nguyen.
12 But she's been asleep for a while. So I --

13 MR. MARGOLIS: Yeah. And I saw Mr. Brown close his eyes.

14 THE COURT: I'm sorry, I can't hear the best. I apologize.
15 Can you repeat?

16 MR. MARGOLIS: I saw Mr. Brown nod off a little bit earlier.
17 But he --

18 THE COURT: Who?

19 MR. MARGOLIS: Mr. Brown closed his eyes a couple times
20 earlier. But he woke right back up. She's been out the whole time.

21 MR. BROOKS: She's been out the whole time.

22 THE COURT: Yeah. And I --

23 MR. BROOKS: She was one of my favorite jurors because I
24 wanted [indiscernible] medical imaging. But at this point it's unfair
25 because she's been asleep --

1 THE COURT: Yeah. It's --

2 MR. BROOKS: -- for all but 20 minutes.

3 THE COURT: I agree. So I've been watching her. And she
4 dozes off, and then she'll wake back up for a little bit. And then -- I mean,
5 it's been pretty constant throughout. So I --

6 MR. BROOKS: It would be unfair.

7 MR. MARGOLIS: I just wasn't witty enough. No, I'm just
8 kidding.

9 MR. BROOKS: I'm just letting you know because she's -- she
10 fell out of her chair. And I want to keep her. I really do.

11 THE COURT: Yeah. No, I think she -- I mean, I think she's
12 great for both of you. I think she's a smart juror. But I agree with that.
13 So we'll let her go.

14 MR. MARGOLIS: Okay.

15 [Sidebar ends at 3:21 p.m.]

16 THE COURT: All right. Ms. Nguyen, badge number 013, you
17 are excused at this time, ma'am. Thank you so much.

18 And Chris, could you fill that seat for me, please?

19 THE CLERK: Okay. So in seat number 4, will be badge
20 number 278, Kara Marcum.

21 THE COURT: All right. Kara, badge number 278, whenever
22 you're ready, ma'am, from the top.

23 PROSPECTIVE JUROR 278: I've been here over five years.
24 Prior to here, I lived in Utah for over, I don't know, give or take 12 years.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR 278: I'm currently in a master's
2 program. I am employed. I teach for Clark County School District. I
3 teach a self-contained autism class. I am married. I've been married for
4 11 years. We do not have children. No to number 6. Not myself nor
5 anyone I'm close to have ever been a victim of a crime. No on number 7.
6 Not myself or anyone I'm close to have ever been accused of a crime.
7 And number 8, there is nothing that I've heard so far that would make it
8 feel like I could not be difficult to sit as a juror.

9 THE COURT: Okay. And then if you would flip it over.
10 There's two questions on the back.

11 PROSPECTIVE JUROR 278: Sorry.

12 THE COURT: That's okay.

13 PROSPECTIVE JUROR 278: Number 9, yes, I could base
14 my -- my verdict on the evidence that's presented.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 278: And number 10, yes, I could be
17 fair and impartial to both sides.

18 THE COURT: And have you served as a juror before?

19 PROSPECTIVE JUROR 278: No.

20 THE COURT: All right. Thank you, Ms. Marcum.
21 State?

22 MR. BROOKS: Pass, Judge. Thank you.

23 THE COURT: Okay. And Mr. Margolis, did you want to --

24 MR. MARGOLIS: Pass, Your Honor.

25 THE COURT: Okay. All right. Thank you.

1 Sukasearm, 205. And Colleen Chauncey, 216. Those of you that are
2 standing, if you wouldn't mind just going and finding a seat in the back
3 of the room for me for a moment. All right. And then just give me one
4 more second.

5 And then Ms. Teresa Rath, 230. All right. So you will be not
6 on the jury. So -- yeah. So you're just standing by them, but I'll just
7 remember.

8 So those of you who are seated to my right as well as Ms.
9 Jackson and Mrs. -- everybody pronounces it wrong and I do too, Ms.
10 Desmarais.

11 PROSPECTIVE JUROR 253: Oh Desmarais.

12 THE COURT: Desmarais, I'm sorry. Okay. Will be our jurors.
13 So if you could stand when I call your name just to make sure that we
14 have everybody. So Jocelyn Shanks, Mark --

15 PROSPECTIVE JUROR 009: Paoni.

16 THE COURT: -- Paoni, thank you. Kara Macrum, Marieta
17 Reed, Tonya Moon, Jeff Hentges, Louanne Cdebaca, Mireya Magana,
18 Derek Del Cano, Avery Callis, James Brown, Kim Whittington, Keven
19 Jeung, Chase Cupo, Samantha Jackson and Tamara.

20 All right. Just want to make sure I have 16 of you. All right.
21 Perfect.

22 All right. So those of you that are standing you can go ahead
23 and have a seat. So if I didn't just ask you to stand you are now released
24 from jury duty. Thank you so much for being here. I really appreciate it.
25 Thank you for being here today and you can exit the courtroom.

1 All right. Jocelyn, would you mind moving over a seat for
2 me? Mark, can you move down a seat as well as Kara and Marieta,
3 please? Tonya, can you move over and up for me? And then Jessica --
4 all right. No. I did, so apologize. I did say Jessica, I meant to say Tonya
5 is -- where did Tonya go? Thank you. And then Tonya after you we'll
6 put Mr. Hentges. Jeff, thank you. And then Louanne, if you want to go
7 all the way over for me. And then we'll stay in that same order guys. So
8 Marieta, you'll go up next, then Derek and then Avery and then James
9 and Kim. And Kevin, you'll take that first seat behind you, then Chase
10 and then Samantha and Tamara. Perfect.

11 All right, guys. Just be at ease for one moment and I'll see
12 the parties up at the bench, please. Thank you.

13 [Sidebar begins at 3:52 p.m.]

14 THE COURT: All right. So I'm thinking I give them like a five
15 minute break and then I'll come in. I'll do the opening court instructions.
16 And you can start with openings in the morning or if you guys want to
17 get it out of the way, it's totally up to you.

18 MR. MARGOLIS: I prefer the morning.

19 MR. BROOKS: That's fine.

20 THE COURT: Okay. All right.

21 MR. MARGOLIS: What time are we going to start?

22 THE COURT: Tomorrow, 9:30.

23 MR. MARGOLIS: 9:30.

24 THE COURT: Okay.

25 MR. BROOKS: Same time on Thursday?

1 THE COURT: What?

2 MR. BROOKS: Same time on Thursday?

3 THE COURT: Thursday --

4 MR. BROOKS: Just because I have a couple early morning
5 things I've got to do first.

6 THE COURT: Yeah. Thursday, 9:30.

7 MR. BROOKS: Okay.

8 THE COURT: Yeah.

9 [Sidebar ends at 3:52 p.m.]

10 THE COURT: All right, guys. We're going to have short
11 bathroom break and then let me tell you a little bit about what's going to
12 happen the rest of the day. So when we come back I'm going to give
13 you the just initial opening jury instructions to tell you the precession of
14 the trial and how it's going to go. And then we'll recess for the rest of
15 the evening, and we'll come back tomorrow morning at 9:30 and we'll
16 role right into opening statements, all right? So let's take about a five, 10
17 minute break, go ahead and use the restroom, get a drink of water,
18 something like that and then I will start with the instructions.

19 So you will -- the law says I have to read this to you every
20 time we break for recess. By the end of it you'll probably have it
21 memorized. But just know that I'm required by law, okay?

22 So during this recess you must not discuss or communicate
23 with anyone including fellow jurors in any way regarding the case or its
24 merits, either by voice, phone, email, text, internet or other means of
25 communication or social media. Please do not read, watch or listen to

1 any news or commentary about the case. Do any research such as
2 consulting dictionaries, using the internet or using reference materials.
3 Please do not make any investigation, test a theory of the case, recreate
4 any aspect of the case or any other way investigate or learn about the
5 case on your own. And please do not form or express any opinion
6 regarding the case until it's submitted to you.

7 I will see you at 4:00 o'clock. Thank you.

8 THE MARSHAL: All rise.

9 [Jury out at 3:54 p.m.]

10 [Recess from 3:54 p.m. to 4:04 p.m.]

11 THE COURT: Please be seated. We are on the record in
12 State of Nevada versus Andrew Young, C-350623. Mr. Young is present
13 with Mr. Margolis. Both deputy district attorneys Mr. Brooks as well as
14 Ms. Sullivan are present on behalf of the State. Do the parties stipulate
15 to the presence of the jury?

16 MS. SULLIVAN: Yes, Your Honor.

17 MR. MARGOLIS: Yes, Your Honor.

18 THE COURT: All right. Ladies and gentlemen, before we
19 begin for those of you now -- who now are with us as jurors I want to let
20 you know what you can expect throughout the process. What I will now
21 say is intended to serve as a general introduction to the trial of this case.
22 It is not a substitute for the detailed instructs on the law which I will give
23 you at the close of the case and before you retire to consider your
24 verdict.

25 First, we want you to be as comfortable as possible

1 throughout this process while you're here. If you have trouble hearing
2 or seeing at any time during the trial, please raise your right hand as an
3 indication. Also if you need to use the restroom, if you feel ill or if you
4 have any other problems, please also raise your hand as an indication. I
5 encourage you to stand up and stretch between witnesses or when the
6 attorneys are discussing something here at the bench with me. You can
7 also feel free bring in any water or other clean liquid as long it doesn't
8 cause any disruption in the proceedings.

9 During trial we generally meet and begin our day between
10 9:00 and 9:30 and generally end about 5:00 o'clock. Occasionally we
11 may break shortly before or after 5:00 if there's a witness testifying at
12 that time or a witness who needs to be called out of order.

13 During the day we generally break for lunch sometime
14 between noon and 1:00 and we have an hour lunch. And then we do 15
15 minute recess in the morning and 15 minute recess in the afternoon.

16 As you have already heard, this is a criminal case
17 commenced by the State of Nevada, which I sometimes refer to as the
18 State against Mr. Young, who I'll sometimes refer to as the Defendant.

19 This case is based on -- is this an information or an indictment case?

20 THE CLERK: Indictment.

21 THE COURT: On what's referred to as an indictment. And
22 Ms. Brown my clerk will now read the indictment to the ladies and
23 gentlemen of the jury and state the plea of the Defendant to the
24 indictment. Ms. Brown.

25 THE CLERK: District Court Clark County Nevada, State of

1 Nevada, Plaintiff versus Andrew Young, Defendant. Case number C-20-
2 350623-1. Department number 6. Third amended superseding
3 indictment.

4 The Defendant above name Andrew Young accused by the
5 Clark County grand jury of the crimes of battery with use of a deadly
6 weapon resulting in substantial bodily harm and attempt murder with
7 use of a deadly weapon. Committed at and within the County of Clark,
8 State of Nevada on or about July 26th, 2020 as follows:

9 Count I, battery with use of a deadly weapon resulting in
10 substantial bodily harm. Did willfully, unlawfully and feloniously use
11 force or violence upon the person of another to wit Robert Will with use
12 of deadly weapon to wit a rock by striking the said Robert Will on the
13 head with said rock resulting in substantial bodily harm to Robert Will.

14 Count II, attempt murder with use of a deadly weapon. Did
15 willfully, unlawfully and feloniously and with malice aforethought
16 attempt to kill Robert Will a human being with use of a deadly weapon to
17 wit a rock by striking the said Robert Will on the head with said rock.

18 Dated this 21st day of February 2022 Steven B. Wolfson
19 Clark County district attorney signed by Parker Brooks deputy district
20 attorney to which the Defendant has entered a plea of not guilty.

21 THE COURT: All right. Please understand that the
22 indictment that was just read by my clerk is simply a charging document
23 and that it is not in any sense evidence of the allegations it contains. The
24 Defendant has plead not guilty to the indictment. The State therefore
25 has the burden of proving each of the essential elements of the

1 indictment beyond a reasonable doubt. As the Defendant sits here now,
2 he is not guilty. The purpose of this trial is to determine whether the
3 State will meet that burden.

4 It is your primary responsibility as jurors to find and
5 determine the facts. Under our system of criminal procedure you are the
6 sole judge of the facts. You are here to determine the facts from the
7 testimony you here and other evidence including exhibits introduced in
8 court. It is up to you to determine the inferences which you feel may be
9 properly drawn from the evidence.

10 You must base your verdict solely on the evidence presented
11 in the courtroom and the instructions on the law that I give you.

12 To protect the integrity of the jury process it is very
13 important that you do not independent research about this case until the
14 jury has reached a final decision.

15 You may not visit any location involved in this case. You
16 must not do any research or look up words, names, maps or anything
17 else that may have anything to do with the case. This includes reading
18 newspapers, watching television or using a computer, cellphone, the
19 internet or any other means to get information related to this case or the
20 people and places involved in this case. This applies whether you're in
21 the courthouse, at home or anywhere else.

22 Additionally until you are discharged from service as a juror
23 you must not provide or receive any information about your jury service
24 to any including friends, co-workers or family members. You may tell
25 people that you have been picked for a jury and how long the case will

1 take. However, you must not give any other information about the case
2 itself or the people involved in the case. You must also warn people not
3 to try to say anything to you or write to you about your services or the
4 case. This includes face to face, phone or computer communications.

5 In this age of electronic communications I'd like to stress that
6 you must not use electronic devices or computers to research or talk
7 about the case in any manner including googling, tweeting, texting,
8 blogging, emailing, snapchatting, tic toking or any of the other types of
9 posting information on a website or other means at all that are available.

10 All of us are depending on you to follow these rules so that
11 there will be fair and lawful resolution to the case.

12 You may not declare to your fellow jurors any facts relating
13 to this case of your own knowledge. And if you discover during the trial
14 or after the jury has retired that you or any other juror has personal
15 knowledge of any witness or fact involved in the case you must disclose
16 that information to me outside the presence of the jurors.

17 So I think it's pretty common knowledge that jurors know
18 that they can't go home and talk about the case to their friends, their
19 family, right? What jurors sometimes get confused about is you actually
20 can't even speak about it amongst one another. So let's say we had
21 interesting witness, you can't go out on recess and speak to each other
22 about the case. The only time you can actually speak about what's
23 happening in the case, is when you go back into the deliberation room
24 and you're in the deliberation room, the case is over and I've given you
25 instructions that you can deliberate, okay?

1 So the trial begins with what's referred to as opening
2 statements. The district attorneys will make an opening statement, if
3 they so desire, which is an outline to help you understand what the State
4 expects to prove. Next the Defendant's attorneys may, if they so desire,
5 make an opening statement, but they don't have to. Opening statements
6 serves as an introduction to the evidence which the party making the
7 statement intends to prove, but they are not evidence.

8 Next comes the presentation of evidence. The State will
9 commence with its case and chief. This is the State's opportunity to
10 present its evidence. This consists of the calling of witnesses and the
11 production of physical items of evidence, such as document or
12 photographs and the like. Counsel for the defense may cross-examine
13 the State's witnesses.

14 Following the State's case in chief the Defendant may
15 present evidence and the district attorneys may cross-examine the
16 defense witnesses. However, as I have said, please remember the
17 Defendant is not obligated to present any evidence.

18 Next comes rebuttal evidence. If the Defendant presents
19 evidence the State will have the opportunity to present what's referred to
20 as rebuttal evidence and the Defendant may have the opportunity to
21 present surrebuttal evidence.

22 The evidence in this case will consist of sworn testimony of
23 witnesses, all exhibits received into evidenced regardless of which side
24 introduces it. And if the attorneys on both sides stipulate to the
25 existence of a fact you must unless otherwise instructed by me accept

1 that stipulation as evidence and regard that fact as proved.

2 I may take judicial notice of certain facts or events. If I take
3 judicial notice of a fact or event you must accept that fact as true. Some
4 example of judicial notice is if the parties said to me, Judge, can you take
5 judicial notice that July 28th was a Monday. So I would go into the
6 calendar, make sure that that is absolutely factually correct and then I
7 would say to you guys, you can take judicial fact -- you can take judicial
8 notice that July whatever I said is a Monday, okay? But I will always let
9 you know when that happens and if it happens.

10 In every case there are two types of evidence direct and
11 circumstantial evidence. Direct evidence is defined as testimony by a
12 witness about what the person saw or heard or did. Circumstantial
13 evidence is defined as testimony or exhibits which are proof of a
14 particular fact from which a fact is proven, you can infer the existence of
15 the second fact.

16 So let me give you a real world explanation because I hate
17 those legal definitions. So direct evidence is, let's say that tonight after
18 we get done with the case and you're walking home from jury duty. You
19 get to your car, and you get in the car and the clouds start to form, it
20 starts get dark and gloomy and gray, you hear thunder, you see
21 lightening and then all of sudden rain is coming down, and you see it
22 with your own eyes. You hear it pitter pattering on your car. That's
23 direct evidence that it rained.

24 So same factual scenario, you get in your car, it's dark, it's
25 gloomy, it's gray, the clouds are forming, you can hear thunder, see

1 lighting way off in the distance, but you don't actually see it rain. You go
2 into your driveway, pull into your garage, shut the door and it's late and
3 you're tired and you go to sleep. You wake up the next morning, there's
4 rain all over -- excuse me. There's water all over the driveway, it's
5 running down the street, it's on the grass and that's circumstantial
6 evidence that it rained, right? You look at all of those facts and you
7 think, okay. What's the reasonable conclusion here? Well, the
8 reasonable conclusion is that it rained. That's what circumstantial
9 evidence is. Didn't see it directly, but you look at all those circumstance
10 and you can infer what happened.

11 You may consider both direct and circumstantial evidence in
12 deciding this case and the law permits you to give equal weight to both
13 types of evidence. But it is up to you decide how much weight to give a
14 particular piece of evidence.

15 The parties may sometimes make objections to some of the
16 testimony or other evidence. It is the duty of a lawyer to object to
17 evidence which he or she believes may not properly be offered and you
18 should not be prejudiced in anyway against the lawyer who makes
19 objections on behalf of the party he or she represents. At times I may
20 sustain objections or direct that you disregard certain testimony or
21 exhibits. You must not consider any evidence to which an objection has
22 been sustained or which I have instructed you to disregard. You must
23 also not consider anything which you may have seen or heard when the
24 Court is not in session, even if what you see or hear is said or done by
25 one of the parties or by one of the witnesses.

1 In considering the weight and value of the testimony of any
2 witness you must take into consideration the appearance, attitude and
3 behavior of the witness, the interest of the witness and the outcome of
4 the case if any, the relation of the witness to the Defendant or the State,
5 the inclination of the witness to speak truthfully or not and the
6 probability or improbability of the witness's statements and all of the
7 facts and circumstances in evidence. Thus, you may give the testimony
8 of any witness such weight and value as you believe the testimony of the
9 witness is entitled to receive.

10 At the conclusion of the evidence I will instruct you on the
11 law. You must not be concerned with the wisdom of any rule of law
12 stated in the instructions or the instructions that I will read to you after
13 the evidence is in. Regardless of any opinion you may have as to what
14 the law ought to be, it would be a violation of your oath to base a verdict
15 upon any other view of the law than that given to you by the Court.

16 Until the case is submitted to you, you must not discuss it
17 with anyone, even with your fellow jurors. After it is submitted to you,
18 you must discuss it only in the jury room with your fellow jurors during
19 deliberation.

20 It is important that you keep an open mind and not decide
21 any issue in the case until the entire case has been submitted to you
22 under instructions from me.

23 Again, if you discover during the course of the trial that you
24 have personal knowledge of the facts of the case or that you know one of
25 the witnesses, please give a note to the marshal who will present it to

1 me.

2 After the instructions have been read to you, each side will
3 have the opportunity to present closing arguments. What is said in
4 closing argument is not evidence, just like opening statements are also
5 not evidence. The arguments are designed to summarize and interpret
6 the evidence while discussing with you how to apply the law to the facts
7 in the case. Since the State has the burden of proving the Defendant
8 guilty beyond a reasonable doubt, the State has the right to open and
9 close the arguments. This means the State will make a closing argument
10 followed by closing argument from the Defense and then the State may
11 make a rebuttal closing argument.

12 After the arguments have been completed you will retire to
13 deliberate on your verdict.

14 During the trial it may be necessary for me to confer with the
15 lawyers at the bench, which means up here with me, about questions of
16 law or procedure that I need to make a decision on. Sometimes you may
17 be excused from the courtroom for the same reason. I try to limit these
18 interruptions as much as possible, but please understand if we take a
19 break it is necessary and that I appreciate your patience.

20 I think that was probably the thing that was most frustrating
21 to me when I was juror in that civil case because the judge would say,
22 okay. Tomorrow morning we're starting at 9:30 and we wouldn't go in
23 until 9:45. Or she'd say, we're taking a 15 minute recess and it would
24 turn into a 25 minute recess. But what I didn't realize at the time because
25 I was such a young attorney is that when that happens it's because the

1 judge and the attorneys are working things out in the courtroom to make
2 that whole process move more efficiently and more smoothly. So I don't
3 want you to think we're in here, you know, taking a break or -- we're
4 actually -- it's rare that we're taking a break, right. We actually work
5 through the recesses. But sometimes there is just issues that have to be
6 hammered out that we basically underestimate the time for.

7 So I try to limit those as much as possible and I try to say -- if
8 I say 15 minutes, I really try to keep it to 15 minutes, but sometimes it
9 just doesn't work that way. So I apologize for that. I try as best as I can
10 to limit that, but if it does happen take it out on me, don't take it out on
11 the attorneys. This is my courtroom, I'm the one in control of it and in
12 control of the timing.

13 You will have -- you will be given a badge to wear during
14 your jury service. Please wear the badge at all times while you are in the
15 courthouse or on a break. This badge lets everyone know that you are a
16 juror in this case. This is important because during the course of the trial
17 the attorneys for both sides and court personnel other than my marshal
18 are not permitted to talk to members of the jury in any way. By this I
19 mean not only can they not talk about the case, but they cannot speak to
20 you at all, not even to ask the time of day. The badge helps them to
21 identify you as a juror. If someone will not talk to you, please
22 understand they are not being rude. To ensure that absolute and
23 partiality of the jury occurs, the people involved in the case are bound by
24 ethics and law to avoid contact with jurors until the case is decided.

25 When you come in tomorrow you will have paper, notebooks

1 and pens for your use. You are free to take notes during the trial if you
2 wish, but please keep the notes to yourself until you and your fellow
3 jurors go to the jury room to decide the case. Do not let notetaking
4 distract you. You also should rely on your own memory of what was
5 said and not be overly influenced by the notes of other jurors. If jurors
6 have conflicting notes, you should not rely on the notes because the
7 court recorder actually contains -- the record actually contains the
8 complete and authentic record of the trial.

9 So one thing I want to say about that is, though we are a
10 court recording department and it's being recorded, the transcription of
11 this trial won't be available for a month or several months. So if you
12 need -- if you have something that you are disagreeing about, there is a
13 way in which we can replay it for you, but it's quite a process. Everyone
14 has to come back in, the court recorder has to be able to try to find it in
15 the court record and then we have to replay it to you. It's not impossible,
16 we can definitely do it, but that's why I think it's important to take notes
17 because coming in here and replaying testimony can be time consuming
18 and it can be difficult for everybody involved, okay?

19 I will probably type a lot of notes during trial. Please do not
20 take this into consideration if I begin to type during a witness's
21 testimony. You are not to consider that testimony more important than
22 any other testimony. I may not even be typing anything regarding that
23 witness's testimony at all.

24 In fact, you are not to consider anything I say or do or
25 anything during this trial that would suggest that I'm inclined to favor the

1 claims or position of any party. I am required to remain neutral. It
2 would be wrong for you to conclude that anything I say or do means I
3 am for one side or another in the trial. Discussing and deciding the facts
4 is your job and your job alone.

5 In my department jurors are allowed to ask questions and so
6 the process goes like this. First the parties will ask the witnesses the
7 questions that they deem appropriate. Once they are completely done, I
8 turn to the jurors and I say, do any of the members of the jury have any
9 questions for this witness. If you do just simply raise your hand.

10 You have to -- it can only be one question per piece of paper.
11 So if have four questions, each questions has to be on one separate
12 piece of paper, and it has to be signed by you and your juror number.
13 All right. So not the badge number that you originally had, but it goes in
14 order. So juror number one is in the top right hand and so it goes, one,
15 two, three, four, five, six and then we go seven, eight, nine, 10, 11, 12,
16 13, 14, 15, 16. So it just goes in sequential order, okay. So that's the
17 number that you have to write. So one question per page, signed and
18 your juror number, all right?

19 Please don't be offended if I don't ask your question. If I
20 don't ask your question it's just because there is an evidentiary rule that
21 prevents me from asking it. You're not lawyers, I don't expect you to
22 know the evidentiary rules, so just write the question and if I don't ask it
23 just know that there's a rule that prevents me from asking it. And when
24 the trial is over if you remember the question, I'm happy to explain to
25 you either a, what the answer was or b, why I couldn't ask it -- why I

1 couldn't have the witness answer it.

2 Please reserve your questions until the attorneys have
3 finished asking questions of the witness as the attorneys will likely ask
4 your question. Jurors must not place undo weight on the responses to
5 their questions or draw conclusions because a question was not asked,
6 like I was just referring to.

7 Finally, in fairness to the parties to this case you should keep
8 an open mind throughout this trial reaching your conclusion only during
9 your final deliberations after all the evidence is in and you have heard
10 the attorneys' closing arguments and my instructions to you on the law.

11 All right. So tomorrow morning we'll start at 9:30. We will
12 start with opening statements. And before we get started I will have my
13 clerk do the administration of the juror oath, but we'll do that first thing
14 in the morning.

15 So Chris will take you guys outside after I read the recess
16 admonishment and get you set up with the badges and talk to you about
17 the procedure in regards to parking and all of that, all right?

18 So during this recess you must not discuss or communicate
19 with anyone including fellow jurors in any way regarding the case or its
20 merits, either by voice, phone, email, text, internet or other means of
21 communication or social media. Please do not read, watch or listen to
22 any news or media accounts or commentary about the case. Do any
23 research such as consulting dictionaries, using the internet or using
24 reference materials. Please do not make any investigation, test a theory
25 of the case, recreate any aspect of the case or in any other way attempt

1 to learn or investigate the case about your own. Please do not form or
2 express any opinion regarding the case until it's submitted to you.

3 Have a nice evening. I will see you tomorrow morning at
4 9:30. Thank you.

5 THE MARSHAL: All rise.

6 [Jury out at 4:23 p.m.]

7 THE CLERK: Off the record, Your Honor.

8 THE COURT: Thank you.

9 [Recess taken from 4:23 p.m. to 4:24 p.m.]

10 [Outside the presence of the jury]

11 THE CLERK: Back on the record, Your Honor.

12 THE COURT: All right. We're back on the record. C-350623,
13 State of Nevada v. Andrew Young. All parties and Mr. Young are still
14 present. We're outside the presence of the jury. According to the State
15 there's a few housekeeping matters that need to be handled. Yes, Mr.
16 Brooks?

17 MR. BROOKS: They're just literally housekeeping. I just
18 want to, because we didn't put this on the record earlier. I did the third
19 amendment superseding indictment which so not to disturb the
20 judgement or conviction of the first 22 counts. I put them back as 23 and
21 24, the ones we're going to trial on. Then did an exhibit that has just one
22 and two for reading to the jury purposes, so that doesn't get disturbed.
23 In the verdict form in the jury instructions, the draft, I didn't put the word
24 count because I didn't know how that would -- so I put just the caption of
25 battery and then the attempt murder. If you want to change that, I just

1 didn't know how that would work.

2 THE COURT: Okay.

3 MR. BROOKS: I gave -- I submitted a possible Tavares
4 instruction for Mr. Margolis to review. I don't know whether you want it
5 read prior to even openings, or I will let you know which witnesses. I
6 just -- I've altered it a bit, you can change it, I'm not glued to it or
7 anything. I just wanted to give an option. I -- Mr. Margolis and I went
8 through each exhibit, I gave him a digital copy of all the different
9 identification based photos from those dates.

10 THE COURT: Okay.

11 MR. BROOKS: And the video clips that I would propose.
12 And then the last thing is we'll have a CCDC witness, I said to bring her
13 at lunch so it's kind of easier with the break rather than bringing in the
14 morning or something like that. So just kind of give -- those are just
15 housekeeping.

16 THE COURT: Okay. Anything you want to add on that?

17 MR. MARGOLIS: I've got to look at that Tavares instruction
18 because I hadn't gotten an email, but --

19 THE COURT: Sure.

20 MR. MARGOLIS: -- let you guys know in the morning.

21 THE COURT: I definitely understand why you would need to
22 look at the instruction and make sure the wording is correct. Do you
23 have in your mind though the decision on whether or not you will want it
24 read simultaneously with evidence?

25 MR. MARGOLIS: I likely will.

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THE COURT: Okay. All right. Just let me know in the morning.


MR. MARGOLIS: Okay.

THE COURT: All right. That's it guys. Thank you. See you in the morning.

MR. BROOKS: Thanks.

[Proceedings adjourned at 4:26 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



Maukele Transcribers, LLC
Jessica B. Cahill, Transcriber, CER/CET-708